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Forty-second Session, 1933

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GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

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The Hon'ble Sir BIJOY PRASAD SINGH ROY, Kt., in charge of the following portfolios:—

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A

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Ali, Maulvi Hassan. [Dinajpur (Muhammadan).]
Ali, Maulvi Syed Nausher. [Jessore South (Muhammadan).]
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B

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C

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Choudhury, Maulvi Nural Absar. [Chittagong North (Muhammadan).]
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D

Dain, Mr. G. R., C.I.E. (Bengal Chamber of Commerce.)
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Dutt, Rai Bahadur Dr. Haridhan. [Calcutta Central (Non-Muhammadan).]

E

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F

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G

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Gupta, Rai Bahadur Mahendra Nath. (Expert, Nominated.)

H

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Haque, Khan Bahadur Maulvi Azizul. [Nadia (Muhammadan).]
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Huq, Mr. A. K. Fazl-ul. [Bakarganj West (Muhammadan).]
Hussain, Maulvi Latafat. (Nominated Non-official.)

K

Karim, Maulvi Abdul. [Burdwan Division South (Muhammadan).]
Kasem, Maulvi Abul. [Burdwan Division North (Muhammadan).]
Khan, Khan Bahadur Maulvi Muazzam Ali. [Pabna (Muhammadan).]
*Khan, Mr. Razaur Rahman, B.L. [Dacca East Rural (Muhammadan).]
Khan, Maulvi Tamizuddin. [Faridpur South (Muhammadan).]
Kindersley, Mr. J. B. (Expert, Nominated.)

L

Lal Muhammad, Haji. [Rajshahi South (Muhammadan).]
Law, Mr. Surendra Nath. (Bengal National Chamber of Commerce.)
Lockhart, Mr. A. R. E. [Presidency and Burdwan (European).]

M

Maguire, Mr. L. T. (Anglo-Indian.)
Maiti, Mr. R. [Midnapore South (Non-Muhammadan).]

*Deputy President, Bengal Legislative Council.

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Mullick, Mr. Mukunda Behary. (Nominated Non-official.)

N

Nag, Reverend B. A. (Nominated Non-official.)
Nag, Babu Suk Lal. [Khulna (Non-Muhammadan).]
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Norton, Mr. H. R. (Calcutta Trades Association.)

P

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Poddar, Seth Hunuman Prosad. [Calcutta West (Non-Muhammadan).]
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Q

Quasem, Maulvi Abul [Khulna (Muhammadan).]

R

Raheem, Mr. A., C.I.E. [Calcutta North (Muhammadan).]
Rahman, Mr. A. F. [Rangpur West (Muhammadan).]
Rahman, Mr. A. F. M. Abdur-. [24-Parganas Rural (Muhammadan).]
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Ray, Maharaja Jagadish Nath, of Dinajpur. [Dinajpur (Non-Muhammadan).]
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Ray Chowdhury, Mr. K. C. (Nominated Non-official.)
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Rout, Babu Hoseni. [Midnapore North (Non-Muhammadan).]
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Roy, Babu Haribansa. [Howrah Rural (Non-Muhammadan).]
Roy, Babu Jitendra Nath. [Jessore North (Non-Muhammadan).]
Roy, Mr. Saileswar Singh. [Burdwan North (Non-Muhammadan).]
Roy, Mr. Sarat Kumar. (Presidency Landholders.)
Roy, Mr. S. N., C.I.E. (Nominated Official.)
Roy Choudhuri, Babu Hem Chandra. [Noakhali (Non-Muhammadan).]

S

Saadatullah, Maulvi Muhammad. [24-Parganas Municipal (Muhammadan).]
Saiana, Babu Satya Kinkar. [Bankura East (Non-Muhammadan).]
Samad, Maulvi Abdus. [Murshidabad (Muhammadan).]
Sarker, Rai Sahib Rebati Mohan. (Nominated Non-official.)
Sen, Rai Sahib Akshoy Kumar. [Faridpur North (Non-Muhammadan).]

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* President of the Bengal Legislative Council.

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Sen, Rai Bahadur Giris Chandra. (Expert, Nominated.)
Sen, Rai Bahadur Jogesh Chandra. [24-Parganas Municipal South (Non-Muhammadan).]
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Sumner, Mr. C. R. (Bengal Chamber of Commerce.)

T

Thompson, Mr. W. H. (Bengal Chamber of Commerce.)
Townend, Mr. H. P. V. (Nominated Official.)

W

Walker, Mr. W. A. M. (Indian Jute Mills Association.)
Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)
Woodhead, the Hon'ble Mr. J. A., C.I.E. (Member, Executive Council.)

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Forty-second Session.)

Volume XLII—No. 2.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 22nd August, 1933, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 99 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Bengal Government Press.

*48. **Rai Bahadur COKUL CHAND BURAL:** *(a)* Will the Hon'ble Member in charge of the Finance Department be pleased to state whether it is a fact—

(i) that the operatives of the Bengal Government Press, Alipore, are the paying section of the whole press;

(ii) that the number of the operatives are being gradually decreased year by year; and

(iii) that the number of the supervising staff are being increased year by year?

(*b*) Will the Hon'ble Member be pleased to state how far the present expenditure in the Bengal Government Press is due to the increase in the overhead charges?

(*c*) Are the Government contemplating prompt curtailment in the number of the supervising staff in the Bengal Government Press? If not, why not?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*) No.

(*ii*) There have been reductions in the number of operatives in recent years.

(*iii*) No.

(*b*) Presumably the member refers to the costs of the supervising staff. These have not increased in recent years.

(*c*) The matter is under consideration in connection with the Retrenchment Committee's Report.

Rai Bahadur KESHAB CHANDRA BANERJI: What was the total number before reduction was made?

The Hon'ble Mr. J. A. WOODHEAD: I must ask for notice of that question.

Piece-workers of the Bengal Government Press.

*49. **Rai Bahadur GOKUL CHAND BURAL:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state the rules and principles controlling the services of the piece-workers of the Bengal Government Press, Alipore?

(*b*) Is it a fact that no strict principles are followed in discharging or retaining the services of the piece-workers in the Bengal Government Press, Alipore?

(*c*) Is it a fact that in case of general reductions seniority of service is not taken into consideration?

(*d*) Is the Hon'ble Member aware—

(*i*) that many permanent hands were discharged; and

(*ii*) that the posts of the paid apprentices were all along being retained?

(*e*) Is the Hon'ble Member aware—

(*i*) that there is no condition imposed on the paid apprentices; and

(*ii*) that they are free to leave at their will after being duly trained in the Press?

(*f*) Is the Hon'ble Member aware that the paid apprentices are superfluous hands from whom men are not available when necessary?

(*g*) Is it a fact that some Lino operators were recruited from outside and not from the paid apprentices in the Press?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) The rules and principles controlling the services of the piece-workers of the Bengal Government Press are laid down in the Rules for the Management of the Printing Department, the Civil Service Regulations and the Fundamental and Subsidiary Rules.

(*b*) No.

(*c*) to (*f*) I am not quite clear what the information is that the member asks for in these questions. If he would see me in my office after the session is over, I will endeavour to obtain for him the information which he requires.

(*g*) Yes. Four Lino operators were recruited from outside in 1930 and one in 1932.

Defaulting estates in Dacca Division.

***50. Rai Sahib AKSHOY KUMAR SEN:** Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing for the years 1929 to 1932 the number of estates in the districts within the Dacca Division—

(*i*) which were sold for arrears of revenue; and

(*ii*) which fell in arrears?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*i*) and (*ii*) Figures for the calendar years are not available. A statement showing the figures for financial years 1929-30, 1930-31 and 1931-32, is, however, laid on the table.

Statement referred to in the reply to starred question No. 50, showing the number of estates (i) sold for arrears of revenue, and (ii) fell in arrears in the districts of the Dacca Division.

(i) *1929-30*—

Estates—65.
Shares—74.

1930-31—

Estates—120.
Shares—116.

1931-32—

Estates—128.
Shares—117.

(ii) *1929-30*—

Estates—1,349.
Shares—1,076.

1930-31—

Estates—1,566.
Shares—1,347.

1931-32—

Estates—2,683.
Shares—2,546.

Remission of revenue.

***51. Mr. R. MAITI:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that the Governments of the United Provinces and Central Provinces have granted remission of revenue to the landlords to a considerable extent who in their turn are also remitting rents to their tenants?

(*b*) If the answer to (*a*) is in the affirmative, do the Government of Bengal propose taking similar steps in view of the acute economic distress prevailing in this country?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) The Government of the United Provinces granted considerable remissions of revenue after first granting remissions of rent. The Government of the Central Provinces also granted considerable remissions of revenue but on what conditions as regards remission of rent, it is not known.

(*b*) No. In Bengal remissions are made according to the principles explained in the Tauzi Manual. The question whether any remissions of revenue in temporarily-settled areas are necessary is under examination.

Maulvi TAMIZUDDIN KHAN: Have any remissions been made according to the principles explained in the Tauzi Manual?

The Hon'ble Sir PROVASH CHUNDER MITTER: Roughly speaking according to those principles, there must be famine conditions and the present situation is not such. It is dearth of money and the low prices of commodities. So, according to the Tauzi Manual, no remissions can be made.

Maulvi TAMIZUDDIN KHAN: Have the Government of Bengal made any remission of rents of tenants in any case?

The Hon'ble Sir PROVASH CHUNDER MITTER: I think they have granted remission in the ordinary course.

Local board election in Midnapore district.

*52. **Mr. R. MAITI:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether it is a fact—

(*i*) that the election of members for the local boards held under the old Local Self-Government Act, in January, 1933, in the district of Midnapore, had failed in some of the thanas;

(*ii*) that a second election was ordered to be held according to the provisions of the amended Local Self-Government Act, for those areas where the last election had failed; and

(*iii*) that in holding the second election only those who had filed nomination papers for those areas at the time of the first election held under the old Local Self-Government Act, were allowed to contest without calling for fresh nomination papers from the public?

(*b*) If the answer to (*a*) (*iii*) is in the affirmative, what are the reasons for the adoption of such a procedure?

(*c*) Is the Hon'ble Minister aware that in some of the thanas no nomination paper was at all submitted at the first election?

(*d*) If the answer to (*c*) is in the affirmative, is the Hon'ble Minister aware of a feeling that exists—

(*i*) that the procedure as adopted at the second election frustrated the object of the second election; and

(*ii*) that it has deprived the constituencies of their right to elect members of their own choice for the whole term?

(*e*) Are the Government considering the desirability of setting aside the whole election and ordering a fresh one to be held in its place?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) (*i*) to (*iii*) Yes.

(*b*) Government were advised that any other procedure would not be in accordance with the provisions of section 10 of the Act, as amended by the Local Self-Government (Amendment) Act, 1932.

(*c*) Yes.

(*d*) No.

(*e*) Government have no power to do this.

Mr. R. MAITI: Is there any provision in the Local Self-Government (Amendment) Act of 1932, that in holding a second election only those who file their nomination papers at the time of the first election will be allowed to contest?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: There is no such provision, but this is the interpretation given to the Act by our advisers.

Mr. R. MAITI: In holding a second election, were the candidates asked to deposit the money as required by the amended Act?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I have no information.

Abduction of Hindu women.

*53. **Babu SATISH CHANDRA RAY CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing—

(*i*) the number of cases of abduction of Hindu women during the year 1932, in Bengal, district by district, of which—

(*1*) informations were lodged with the police; and

(*2*) complaints were made in court;

(*ii*) of cases reported to police, in how many charge sheets were submitted and in how many final report was given;

(*iii*) the number of cases committed to the court of sessions;

(*iv*) the number of cases which ended either in acquittal or discharge;

(*v*) the number of cases ending in conviction;

(*vi*) the number of cases in which maximum penalty prescribed by law was inflicted; and

(*vii*) the number of cases of abduction of Hindu women started either by information to police or by complaints in court in the whole of Bengal during 1930 and 1931, respectively?

(*b*) Is the Hon'ble Member aware that this class of crime is on the increase in Bengal?

(*c*) Do the Government contemplate special measures to deal with this class of crime?

(*d*) Are the Government considering the advisability of issuing special instructions to all investigating officers regarding the method of dealing with and reporting such crimes?

(*e*) Are the Government considering the advisability of moving the High Court, if necessary, to instruct all subordinate courts to inflict deterrent sentences as a measure of prevention?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*) to (*v*) Complete statistics are not available and in particular no separate figures have been kept for cases regarding Hindu women. A statement containing the figures for offences under section 366, Indian Penal Code, against women generally during 1932, is laid on the table.

(*vi*) The figures are not available, but Government are informed that the sentences passed on offenders who are convicted are usually below the maximum penalty prescribed by law.

(*vii*) The figures for cases under section 366, Indian Penal Code, for offences against women generally are 1930—280, 1931—279.

(*b*) The figures fluctuate. They do not justify the definite conclusion that this class of crime is on the increase.

(*c*) and (*d*) The attention of officers has been more than once drawn to the need for dealing energetically with this class of crime; and recently it has been again directed to this matter.

(*e*) No.

Statement referred to in the reply to starred question No. 53 (a) (i) to (v), containing the figures for offences under section 366, Indian Penal Code, against women generally during 1932.

District.	Number of cases of which informations were lodged with the police. Under section 366, I.P.C.	Number of cases reported to police which ended either in acquittal or discharge.* Under section 366, I.P.C.	Number of cases reported to police ended in conviction*. Under section 366, I.P.C.
24-Parganas	20	..	4
Nadia	18	..	4
Murshidabad	3	1	..
Jessore	5	..	1
Khulna	8	..	4
Burdwan	7	..	2
Birbhum	2	..	2
Bankura	2	1	..
Midnapore	2	1	..
Hooghly	..	..	..
Howrah	1	..	..
Rajshahi	15	3	2
Dinajpur	3	3	..
Jalpaiguri	3	..	..
Rangpur	51	19	6
Bogra	12	5	6
Pabna	17	1	4
Malda	4	..	..
Darjeeling	3	..	1
Dacca	10	2	3
Mymensingh	31	13	17
Tippera	3	1	..
Bakarganj	30	8	11
Faridpur	..	..	..
Noakhali	1	..	1
Chittagong	9	3	..
	260	61	68

*Including cases pending from previous year.

Babu SATISH CHANDRA RAY CHOWDHURY: So far as figures are available, are not the majority of women Hindu women?

The Hon'ble Sir WILLIAM PRENTICE: I must ask for notice.

Babu SATISH CHANDRA RAY CHOWDHURY: Why is not the maximum penalty awarded in such cases?

The Hon'ble Sir WILLIAM PRENTICE: That is a matter for the Courts surely.

Babu SATISH CHANDRA RAY CHOWDHURY: Is not a deterrent sentence by itself one of the effective checks for this sort of crime?

The Hon'ble Sir WILLIAM PRENTICE: That is a matter of opinion.

Babu SATISH CHANDRA RAY CHOWDHURY: Was whipping ever awarded as a punishment in such cases?

The Hon'ble Sir WILLIAM PRENTICE: I must ask for notice.

Babu SATISH CHANDRA RAY CHOWDHURY: Is it a fact that this class of crime is not on the decrease?

The Hon'ble Sir WILLIAM PRENTICE: I would refer the hon'ble member to the answer to (*vii*) (*b*).

Bankura Zilla School.

*54. **Babu SATYA KINKAR SAHANA:** Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing for each of the last five years—

(*i*) what amount the Government had to spend from provincial revenues for the maintenance of the Bankura Zilla School; and

(*ii*) what amount the Government spent for all the other high English schools in the district of Bankura?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): A statement is laid on the table.

Statement referred to in the reply to starred question No. 54.

Year.		Amount.
		Rs.
(*i*) 1928-29	...	12,034
1929-30	...	13,972
1930-31	...	12,759
1931-32	...	10,758
1932-33	...	8,284
(*ii*) 1928-29	...	20,712
1929-30	...	21,351
1930-31	...	21,284
1931-32	...	20,509
1932-33	...	19,783

Babu SATYA KINKAR SAHANA: What is the number of High English Schools in the district of Bankura other than the Government Zilla School?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I must have notice. I cannot answer it offhand.

Babu SATYA KINKAR SAHANA: Will the Hon'ble Minister take it from me that the number is 11?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: It may be so; I cannot contradict him.

Babu SATYA KINKAR SAHANA: Why is there such a vast difference in the maintenance of the schools—Rs. 12,000 for the Government School and Rs. 20,000 for the other 11 schools?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Because in one case the entire cost is borne by Government and in the other we only give aid. That is the reason.

Resettlement of purchased Government taluks in Chittagong.

*55. **Haji BADI AHMED CHOWDHURY:** (*a*) With reference to the statement laid on the table in reply to clause *d* (*i*) of starred question No. 114, dated 22nd August, 1932, will the Hon'ble Member in charge of the Revenue Department be pleased to state whether any resettlement has been effected in respect of the following four *taluks* purchased by Government?

Taluk No.	Land in acre.	Revenue.	Purchase at—
		Rs. a.	Re.
23929	670·16	1,134 8	1
34793	560·0	712 8	1
34795	33·13	145 12	1
493	143·91	688 12	1

(*b*) If the answer to (*a*) is in the affirmative, what is the *jama* at which resettlement has been made and what *salami* or premium has been paid for it?

(*c*) If no resettlement has taken place yet, what are the reasons?

(*d*) Is the Hon'ble Member aware—

(*i*) of the loss sustained by Government by the purchase; and

(*ii*) that the sale of these estates was held after rejection of the petition for time for payment of arrears in part?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) The proceedings for resettlement have been started but have not been concluded.

(*b*) Does not arise.

(*c*) In the case of *taluks* Nos. 23929 and 34793, the old *talukdars* applied to take resettlement of their *taluks* on payment of all arrears. But as they have not yet paid off the entire arrears, resettlement has not yet been concluded. As regards *taluks* Nos. 34795 and 493, the parties who have applied for settlement have not yet paid the money required. A portion of the *taluk* No. 493 has diluviated.

(*d*) (*i*) Resettlement of Government purchased estates is generally effected after realisation of all the arrears as *salami*.

(*ii*) The *talukdar* of the first *taluk* was asked to pay ⅓ of the arrears of revenue, the *talukdar* of the second ¼th, and the *talukdar* of the fourth Rs. 100 to secure exemption, but they did not pay. The owner of the third *taluk* applied for exemption without payment of any amount out of the arrears, and the Collector refused to grant exemption.

Maulvi SYED MAJID BAKSH: Even when one-third and one-fourth arrears of revenue are demanded, why do not the persons who wanted settlement pay?

The Hon'ble Sir PROVASH CHUNDER MITTER: I think those persons can answer best.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member agree when I suggest that it is because the amount of revenue has been excessively high?

The Hon'ble Sir PROVASH CHUNDER MITTER: I cannot agree to the suggestion because of other informations in my possession.

Maulvi SYED MAJID BAKSH: Why did the Collector refuse the necessary exemption even when the exemption was prayed for?

The Hon'ble Sir PROVASH CHUNDER MITTER: Because no payment was made.

Maulvi SYED MAJID BAKSH: Is it not a fact that on account of this, Government is losing revenue to a great extent?

The Hon'ble Sir PROVASH CHUNDER MITTER: No, not on account of this.

Haji Badi Ahmed Chowdhury then asked a supplementary question in Bengali, and the Hon'ble Member asked for notice.

Union courts in Chittagong.

*56. **Haji BADI AHMED CHOWDHURY:** (*a*) With reference to the reply given to clause (*c*) of starred question No. 60 of the 15th August, 1932, will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) how many union courts have been established in Chittagong since the date of the said reply;

(*ii*) how many union benches are in existence now in Chittagong;

(*iii*) who are the members thereof, and what are their respective qualifications; and

(*iv*) what are the reasons for appointing the members of the union benches as members of union courts?

(*b*) Is the Hon'ble Member aware—

(*i*) that the union board members expressed their willingness to have union courts and more union benches when they met in the district union board conference held in 1339 B.S., and

(*ii*) that Subdivisional Officers and Circle Officers recommended the establishment of some union courts in Chittagong?

(*c*) Is it not a fact that the then District Magistrate, Mr. A. H. Kemm, recorded a note recommending the establishment of some union courts in Chittagong?

(*d*) If the answers to (*b*) and (*c*) are in the affirmative, what are the reasons for not establishing union courts in Chittagong as yet?

(*e*) What immediate steps do the Government contemplate taking in accordance with their reply to clause (*c*) of starred question No. 60 dated the 15th August, 1932?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*) None.

(*ii*) 43.

(*iii*) The information cannot be obtained without a laborious inquiry which Government regret they are not prepared to undertake.

(*iv*) The appointment of the members is made on the recommendation of local officers, who presumably select the persons who are deemed most suitable.

(*b*) (*i*) The views of the union board members on this point were not brought to the notice of Government.

(*ii*) Yes: recommendations were made for three courts in 1931 and 1932.

(*c*) Mr. Kemm suggested that four courts should be established if local conditions in the district were considered suitable.

(*d*) A recommendation for the establishment of one court was accepted. The other recommendations were rejected as the record of bench work did not appear to justify the establishment of courts.

(*e*) Nothing will be done until the local officers are satisfied that conditions are suitable.

Maulvi SYED MAJID BAKSH: With reference to (*b*) (*i*), was there not a Conference of Union Board Members in which the Collector was present and in which the members expressed their willingness to have Union Courts.

The Hon'ble Sir WILLIAM PRENTICE: I have not seen those papers.

King George's Docks.

*57. **Maulvi NURAL ABSAR CHOUDHURY:** (*a*) Will the Hon'ble Member in charge of the Marine Department be pleased to state—

(*i*) what was the total number of berths that were provided for in the original scheme of King George's Docks;

(*ii*) what was the estimated cost for carrying on the entire scheme of construction;

(*iii*) how many berths up to now have been constructed;

(*iv*) what was the cost estimated for the construction of these berths; and

(*v*) what expenditure has been actually incurred in carrying out the construction of these berths?

(*b*) Do the Port Commissioners contemplate resuming the construction of the King George's Docks in order to provide additional berths?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state how the accommodation and facilities available for the present have been found insufficient to meet the demands of the trade?

MEMBER in charge of MARINE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*) 30.

(*ii*) No detailed estimate was framed for the whole scheme because it was always intended to construct the berths as required.

(*iii*) Four

(*iv*) and (*v*) The estimated cost of constructing King George's Dock with the existing four berths was Rs. 9,48,77,749. The estimated cost of the four berths themselves including sheds and all equipment was Rs. 2,34,54,943. The actual expenditure up to date is Rs. 9,29,63,838 for the whole dock and Rs. 2,28,54,308 for the four berths.

(*b*) Additional berths will be provided in King George's Dock if and when the accommodation is required by the trade of the Port.

(*c*) The accommodation now available is not insufficient to meet the present demands of trade.

Co-operative land mortgage banks.

*58. **Mr. SURENDRA NATH LAW:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether the attention of the Government has been drawn to the suggestion made by the Bengal National Chamber of Commerce in their memorandum (dated the 20th January, 1933) submitted to the Government on the "Economic Problems of Bengal," that for alleviating the distress of the mass of agriculturists in the province, the Government should take steps to establish co-operative land mortgage banks with necessary State support and guidance, initiating simultaneously a scheme of debt composition?

(*b*) If the answer to (*a*) is in the affirmative, are the Government contemplating taking action in this regard at least by the establishment in certain selected districts of some experimental banks of the nature suggested?

(*c*) If no steps are being taken in the matter what are the reasons therefor?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab Khan Bahadur K. G. M. Faroqui): (*a*) Yes.

(*b*) The matter is under consideration.

(*c*) Does not arise.

Rai Bahadur KESHAB CHANDRA BANERJI: In view of the fact that an acute economic distress has been prevailing in the country for the last three years, can we expect that the Government decision will be expedited in the course of this year?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: Yes.

Mr. P. BANERJI: With reference to (*b*) what is the present position of the matter under consideration?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: The Registrar of Co-operative Societies has been asked to submit a detailed scheme which is expected very soon.

Mr. P. BANERJI: When was he asked to submit it?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: I do not exactly remember the date.

Chief Inspector of Primary Schools, Bengal.

*59. **Mr. P. BANERJI:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that a European gentleman has been appointed as Chief Inspector of Primary Schools, Bengal? If so, what is his salary per month?

(*b*) Is it a fact that no competent Indian could be found to hold the post on a less salary?

(*c*) How many posts of assistants have been sanctioned for the office of the Chief Inspector of Primary Schools, Bengal?

(*d*) What are the scales of pay of these assistants?

(*e*) Is it a fact that some of the posts of assistants have been filled up?

(*f*) If so, will the Hon'ble Minister be pleased to state whether these posts were duly advertised and the appointments were made after considering the cases of qualified deserving candidates?

(*g*) Is it a fact that a junior assistant in a lower grade from the office of the Director of Public Instruction, Bengal, has been appointed as a head clerk of that office?

(*h*) If the answer to (*g*) is in the affirmative, will the Hon'ble Minister be pleased to state what are his qualifications and special claims for this post?

(*i*) Is it a fact that many competent and qualified assistants of the office of Director of Public Instruction, Bengal, as well as of other offices, applied for this post?

(*j*) If so, whether these applications were considered? If not, why not?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) No Chief Inspector has been appointed, but a European officer of the Indian Educational Service has been appointed special officer, on his normal salary, to initiate Government's optional scheme.

(*b*) No special pay having been sanctioned for the post, the appointment of an Indian officer drawing a smaller salary would have made no difference to the cost, as the extra expenditure involved was merely the extra pay of the officer promoted from the Subordinate Educational Service to the Bengal Educational Service and the pay of his substitute in the Subordinate Educational Service, and these would be the same in any case.

(*c*) Two, a clerk and a stenographer.

(*d*) One in the scale Rs. 125—10—225 less 15 per cent. and one in the scale Rs. 80—5—175.

(*e*) Yes, both.

(*f*) The posts were not advertised as many applications had been received. All applications were considered, and in the case of stenographer two separate tests were given.

(*g*) There is only one clerk and he was promoted from a lower grade.

(*h*) He has 21 years' experience of Director of Public Instruction's office work and had previously been dealing with Primary Education.

(*i*) Many qualified candidates applied.

(*j*) Yes.

Maulvi ABDUL KARIM: Can we have some idea as to the nature of the work the Special Officer is doing?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: He is trying to organise the elections in the various District Board Schools under the optional scheme. He is framing rules and regulations, he is interviewing various Chairmen and arranging the contributions which will have to be made under the optional scheme when started. He is also doing various other duties.

Rai Bahadur KESHAB CHANDRA BANERJI: Who is the officer appointed?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Dr. Jenkins.

Rai Bahadur KESHAB CHANDRA BANERJI: With reference to (*f*), is it not the ordinary procedure to call for applications in every case whenever there is a vacancy?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes, that is the usual practice.

Rai Bahadur KESHAB CHANDRA BANERJI: Why was a departure made in this case?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Because there was a large number of applications already in the office.

Mr. P. BANERJI: Was Dr. Jenkins the Principal of the Rajshahi College?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Mr. P. BANERJI: How is it that it is stated in the answer that he was a European officer of the Indian Educational Service?

(No answer was given.)

Maulvi SYED MAJID BAKSH: What amount of work has been actually done by Dr. Jenkins?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: He has practically got all the District Boards to agree to the contributions which they should make, and he has already arranged to have the elections of the District School Boards.

Maulvi ABDUL KARIM: How long is this special work likely to continue?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: It is not merely the special work he is in charge of. He is in charge of the entire primary education, and he is also trying to go into the question of the big scheme which will come into effect as soon as cess is imposed. It is not a temporary post, but when the Primary Act is introduced and the cess is imposed, it will require a whole-time officer to supervise primary education.

Maulvi SYED MAJID BAKSH: Is he also a cess expert?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I do not think that question can arise.

Dinajpur District Jail.

*60. **Maulvi HASSAN ALI:** Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state with regard to the Dinajpur District Jail—

(i) whether it is a fact that more than one variety of fine rice are kept in the godown of the Dinajpur Jail;

(ii) whether it is a fact that simple imprisonment prisoners and undertrials also are made to do work such as cleaning of barfetters, washing of drains, etc.;

(*iii*) whether it is a fact that prisoners are beaten and abused in filthy language by the head warder and sepoys;

(*iv*) whether it is a fact that prisoners are required to work at the water-pump without a shade over them;

(*v*) whether it is a fact that wards Nos. 1 to 10 of the Dinajpur District Jail building are very old and are in an extremely risky condition;

(*vi*) whether it is a fact that out of 421 rafters, 199 rafters and 5 beams out of 22 need immediate removal and replacement by new ones;

(*vii*) whether it is a fact that blankets and dope mats are kept unwashed;

(*viii*) whether it is a fact that prisoners are kept in wards beyond their (the wards') capacity;

(*ix*) whether it is a fact that cabbages, beets and radishes are given as vegetables to the prisoners even up to the end of June, a date by which they are considered to become quite unfit for human consumption; and

(*x*) what is the number of prisoners in the Dinajpur District Jail and how much potatoes is supplied per meal?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*i*), (*ii*) and (*iii*) No.

(*iv*) Yes; but prisoners are allowed the use of bamboo sun-hats.

(*v*), (*vi*) and (*vii*) No.

(*viii*) Yes; on occasions when the jail is overcrowded.

(*ix*) No.

(*x*) The number of prisoners at Dinajpur Jail on 3rd August, 1933, was 363. Nine maunds and 32 seers of potatoes were issued to the prisoners from 13th June, 1933, to 19th July, 1933, the average population being 302. The potatoes were issued as part of the vegetable ration. There is no quantity fixed for supply at each meal.

Mussalman Commissioner in the Calcutta Port Trust.

***61. Maulvi NURAL ABSAR CHOUDHURY:** (*a*) Will the Hon'ble Member in charge of the Marine Department be pleased to state whether it is a fact that there is not a single Mussalman Commissioner in the Calcutta Port Trust?

(*b*) Was there ever any Mussalman Commissioner in the past?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state in what year or years, and how many on each occasion?

(*d*) Is it a fact that out of the twelve elected Commissioners four are elected by such body or bodies as the local Government from time to time selects as best representing the Indian mercantile community?

(*e*) Are the Government aware that the Mussalman businessmen of Calcutta carry on extensive trade in the Port of Calcutta?

(*f*) Are the Government considering the necessity of giving recognition to the Muslim Chamber of Commerce by offering that body a seat on the Calcutta Port Trust?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) Yes.

(*b*) No.

(*c*) Does not arise.

(*d*) and (*e*) Yes.

(*f*) There is no vacancy at present, but the question will be considered when a vacancy occurs.

Imported cattle.

*82. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to lay on the table a statement showing for the period from 1928-1930 the number of imported cattle sold in all the cattle farms of Bengal and also the approximate sale-proceeds therefrom?

(*b*) Is the Hon'ble Minister aware—

(*i*) that many lakhs of rupees are spent by the people of Bengal for purchasing cattle imported from the Bihar province for the plough cart and for milk;

(*ii*) that this is due to the want of good milch-cows and bullocks in Bengal; and

(*iii*) that the wealth of Bengal is drained out every year in this direction?

(*c*) If the answer to (*b*) is in the affirmative, are the Government considering the desirability of granting sufficient money for the improvement of cattle and of making Bengal self-supporting for milch and draft animal?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: (*a*) A statement is laid on the table.

(*b*) (*i*) to (*iii*) Inquiries in connection with the census of cattle have shown that this province generally is very far from being able to meet its own demand for cattle locally and especially its demand for draught bullocks. Consequently considerable sums of money must be spent by the people for the purchase of imported cattle.

(*c*) Government are already spending money for the improvement of cattle in Bengal, but this is necessarily subject to the limitations imposed by the exigencies of the financial situation.

Statement referred to in the reply to starred question No. 62 (a) showing the number of imported (Indian) stock of cattle sold from the cattle farms in Bengal during the years 1928 to 1930 and the approximate sale proceeds thereof.

Year.	Bulls.	Cows.	Young stock.	Approximate sale proceeds.
				Rs.
1928	18	24	21	5,620
1929	12	..	5	2,762
1930	7	23	11	2,404

Maulvi SYED MAJID BAKSH: Can we have an idea as to the amount of cost involved in realising the sale proceeds and the maintenance of the cattle?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: I want notice.

Rangpur cattle farm.

*63. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Minister in charge of the Agriculture Department be pleased to state whether it is a fact that there has been a proposal for the closing down of the Rangpur Government cattle farm?

(*b*) Is the Hon'ble Minister aware that the said farm is doing useful work for the improvement of cattle by supplying pedigree bulls in the *mufassal*?

(c) If the answer to (a) is in the affirmative, will the Hon'ble Minister in charge be pleased to state why this farm is proposed to be closed down?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: (a) Yes, in pursuance of the recommendation of the Bengal Retrenchment Committee it has been decided to close down the Rangpur cattle farm.

(b) It is a fact that pedigree bulls have been supplied from this farm.

(c) Chiefly on the ground of unsuitability of the farm as a breeding centre, as represented to Government by the departmental experts, including the Animal Husbandry Expert to the Imperial Council of Agricultural Research. The work of cattle-breeding will now be centralised at the cattle section in the Dacca farm.

Babu KISHORI MOHAN CHAUDHURI: Is there any other cattle farm in the Rajshahi Division?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: There is no Government farm.

Babu KISHORI MOHAN CHAUDHURI: Could not the cattle farm at Rangpur be transferred to Jalpaiguri or Dinajpur or some other district in the north of Bengal where cattle-breeding could be centralised for the benefit of the Rajshahi Division?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: Our expert advice was that the climatic condition of that portion of the province was not suitable for breeding purpose and the whole thing was moved to Dacca.

Mr. SHANTI SHEKHARESWAR RAY: Have the Government received any representation from persons in North Bengal, praying that the cattle farm should be located somewhere in North Bengal?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: Yes.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not a fact that so long as the farm was existing in North Bengal the people did not take advantage of it?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: I want notice of that.

Calcutta Port Act (Ben. Act III of 1890).

*84. **Maulvi NURAL ABSAR CHOUDHURY:** (*a*) Are the Government in the Marine Department considering the desirability of taking any step to have the Bengal Act III of 1890, *i.e.*, the Calcutta Port Act, modified?

(*b*) Are the Government aware that the ratio of Indian Commissioners and officers to non-Indians, inclusive of Anglo-Indians in the Calcutta Port Trust, is far less than in any other major Port Trust in India with the possible exception of Chittagong, so far as the number of Indian officers is concerned?

(*c*) Has there been any increase in the number of Indian officers, leaving aside those who have retired, during the last one year?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state by how many has the number of Indian officers been increased?

(*e*) Will the Government consider the necessity of appointing a committee to inquire into the working of the Port of Calcutta with a view to securing greater Indian representation and control in the affairs of the Port and to suggest methods of its more economic administration?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) No.

(*b*) Government have no information in regard to the ratio of Indian officers to non-Indian officers at the other major ports.

(*c*) During the last year there has been a decrease in the number of officers employed in each department of the Port Trust owing to retrenchment. No new employees other than statutory natives of India have been engaged except where technical qualifications at present not possessed by Indians were essential.

(*d*) Does not arise.

(*e*) Government do not consider that the appointment of such a committee is necessary.

Bally Bridge tolls.

*85. **Mr. SURENDRA NATH LAW:** (*a*) Has the attention of the Hon'ble Minister in charge of the Public Works Department been drawn to the fact that certain scheduled rates are being charged on all pedestrians and all kinds of vehicles including private cars, bullock carts, etc., crossing the Bally Bridge, and that the rate for private cars has been fixed at eight annas per each trip?

(*b*) Is the Hon'ble Minister aware that there exists a feeling over this rate in those people and commercial firms who have to use the bridge more than 4 or 5 times a day in connection with their business?

(*c*) Will the Hon'ble Minister be pleased to state whether originally in making a contribution towards the maintenance of the bridge the Government made it a condition that no tolls were to be levied on the users of the bridge?

(*d*) Is the Hon'ble Minister aware of the hardship on the part of both the businessmen and other regular users of the Bally Bridge?

(*e*) Are the Government considering the desirability of introducing seasonal tickets at concession rates permitting the use of the bridge for a month or a quarter, as are being issued by the railway and other transport agencies?

MINISTER in charge of PUBLIC WORKS DEPARTMENT (the Hon'ble Nawab Khan Bahadur K. G. M. Faroqui): (*a*) Yes.

(*b*) Representations to that effect have been received and considered by Government.

(*c*) No.

(*d*) No. Users of the bridge pay the prescribed toll for the facilities afforded by it.

(*e*) The question of issuing monthly tickets for foot-passengers is already under examination. Government are also prepared to consider the question of issuing monthly tickets for motor vehicles or buses, provided there is a sufficient demand for the same.

Annual test of copy-holders in the Bengal Government Press.

*86. **Rai Bahadur GOKUL CHAND BURAL:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state whether it is a fact that in connection with the annual test of the copy-holders held on the 6th August, 1932, in the Bengal Government Press, Alipore, the second paper was communicated beforehand to some of the examinees and that the test was held and promotion made in spite of protest?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether any inquiry was made into the matter? If not, why not?

(*c*) If an inquiry was made, what are the results thereof?

The Hon'ble Mr. J. A. WOODHEAD: (*a*), (*b*) and (*c*) After the examinees had taken the second paper the Superintendent discovered that certain of the questions of that paper had been communicated to some of them before the examination. He held an inquiry and took disciplinary action against those whom he considered to be at fault. He decided to ignore the results of the second paper, and made his selections for promotion on the results of the first paper only. The only protest received was a protest sent in a month after the promotions had been made.

Grouping system of readers in the Bengal Government Press.

*67. **Rai Bahadur GOKUL CHAND BURAL:** (*a*) Is the Hon'ble Member in charge of the Finance Department aware—

(*i*) that a "grouping system" has been introduced in the Reading Branch in contravention of section 376 of the present Handbook of the Bengal Government Press; and

(*ii*) that this "grouping system" has necessitated 8 highly paid posts of Readers-in-charge?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state the reasons for the introduction of the said system?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) and (*b*) It is understood that the member is referring to the system whereby readers are attached to separate sections instead of there being a reading branch for the whole press. This system has not involved the creation of highly paid posts which would otherwise have been unnecessary. It has been in force for many years and contravenes no section of the Handbook of the Bengal Government Press. The section 376 to which the member refers was cancelled some time ago.

Piece-workers of the Bengal Government Press.

*68. **Rai Bahadur GOKUL CHAND BURAL:** (*a*) Is the Hon'ble Member in charge of the Finance Department aware that the Bengal Piece-workers' Committee, 1926, recommended and the Government accepted the principles of the recommendation that arrangement should be made for bringing the piece-workers more directly under the Civil Service Regulations for the purposes of pension?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether the system of pension has been introduced in the Bengal Government Press in so far as the piece-workers are concerned? If not, why not?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) Yes.

(*b*) In 1927 service in the "temporary (extra) piece establishment" was declared to be permanent service and the title of this establishment was changed to "extra piece establishment." At the same time service in this extra piece establishment was declared to count for pension if followed by service in the permanent piece establishment or permanent salaried establishment. This has been the position up to date, but it has now been decided, in pursuance of a further recommendation of the Bengal Piece-workers' Committee, 1926, to institute a contributory Provident Fund for the piece establishment with effect from the 1st April, 1934.

Scheduled Castes List.

*69. **Mr. ANANDA MOHAN PODDAR:** *a*) Will the Hon'ble Member in charge of the Appointment (Reforms) Department be pleased to state whether representations have been submitted by any caste, association or individual in accordance with Resolution No. 122-A.R., dated the 16th January, 1933, published in the *Calcutta Gazette* on the 19th idem?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) whether such representations have received the consideration of the Government; and

(*ii*) whether any caste has been included or excluded from the "Scheduled Castes List"?

MEMBER in charge of APPOINTMENT (REFORMS) DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) Yes. A copy of the list of representations was placed on the library table in connection with the answer given to starred question No. 4 asked by Raja Bhupendra Narayan Sinha Bahadur, of Nashipur, in this Council on the 20th February, 1933.

(*b*) (*i*) and (*ii*) Government have considered the representations, and an official statement will be issued in due course.

Babu SATISH CHANDRA RAY CHOWDHURY: Has any of these representations been considered so far?

The Hon'ble Sir WILLIAM PRENTICE: They have all been considered.

Babu SATISH CHANDRA RAY CHOWDHURY: Has any alteration or change been made in the list?

The Hon'ble Sir WILLIAM PRENTICE: I can only say—wait and see.

Babu SATISH CHANDRA RAY CHOWDHURY: How long are we to wait?

The Hon'ble Sir WILLIAM PRENTICE: I cannot be very definite—probably during the next two or three months it will come out.

Dr. AMULYA RATAN GHOSE: What are the names of the castes who have represented for inclusion into the scheduled castes and those who have asked to be excluded?

The Hon'ble Sir WILLIAM PRENTICE: There will be another question on the paper on this subject on a future date and the names of the castes will be stated in reply to that question.

Rajshahi Central Jail.

*70. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Is the Hon'ble Member in charge of the Political (Jails) Department aware—

(i) that there is no waiting room nor even a shed for the friends and relatives of convicts and undertrial prisoners who usually visit prisoners in the Rajshahi Central Jail;

(ii) that the visitors have had to wait in the sun and in the rains for any length of time to seek interviews with the prisoners; and

(iii) that the female interviewers have to wait in the open street for interviews?

(*b*) Do the Government contemplate erecting a waiting room for the visitors at an early date?

(*c*) Is it a fact that complaints have been made to the Government for the unusual delay that is being felt by the interviewers in getting the interviews at the right time?

(*d*) If the answer to (*c*) is in the affirmative, what steps, if any, are being taken in the matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) Yes.

(*ii*) Yes, visitors have to wait for their turn when there is a large number of them.

(*iii*) Female interviewers have to wait outside the jail.

(*b*) Not at present.

(*c*) No. I understand that interviews are given as quickly as possible, but if there are several persons for interview they have to await their turn.

(*d*) This does not arise.

Maulvi SYED MAJID BAKSH: With reference to (*a*)(*iii*), do the female interviewers wait outside in the open street without any shade?

The Hon'ble Sir PROVASH CHUNDER MITTER: I think I have already answered that question.

Mr. M. S. Aney in the Midnapore Central Jail.

*71. **Mr. R. MAITI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact—

(*i*) that Mr. M. S. Aney, the Acting President of the Indian National Congress, was brought down to the Midnapore Central Jail after his arrest at Midnapore;

(*ii*) that on Mr. Aney's arriving at the said Jail his person was searched in an objectionable manner;

(*iii*) that he was forcibly made to sit down and stand up;

(*iv*) that he was not at first supplied with the articles necessary for the observance of his religious rites; and

(*v*) that he was treated as a Division III prisoner?

(*b*) If the answers to (*a*) (*ii*) to (*v*) are in the affirmative, what were the reasons?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) Yes.

(*ii*) He was searched by a head warder in presence of the jailor in the usual way.

(*iii*) My information is that no force was used on him.

(*iv*) He was supplied with the articles he required.

(*v*) He was treated as Division II undertrial. He was told that he might apply for higher classification. but this he declined to do.

(*b*) Does not arise.

Babu SATISH CHANDRA RAY CHOWDHURY: With reference to (*vi*), was Mr. Aney asked to sit down and sit up a number of times without any force being used on him?

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not think so. It is not so according to our information, which is this: "On that particular occasion two bus-loads of naked, yelling, hunger-striking, violent civil disobedience convicts had been received from Hijli where they had been giving trouble. Some of them were present at the Central Jail where the incident referred to occurred, and they were responsible for a disturbance. Mr. Aney took no part in the disturbance, and he obeyed orders, so no force was used against him."

Babu SATISH CHANDRA RAY CHOWDHURY: Was any reference made to Government by the local authorities as regards the division in which Mr. Aney should be placed?

The Hon'ble Sir PROVASH CHUNDER MITTER: There was no time or occasion for such a reference.

Babu SATISH CHANDRA RAY CHOWDHURY: Was the Government subsequently informed about the order placing Mr. Aney in Division II?

The Hon'ble Sir PROVASH CHUNDER MITTER: No orders were passed. Mr. Aney was told that he might apply for higher classification, but according to the true spirit of his creed perhaps he did not like to do so.

Mr. SHANTI SHEKHARESWAR RAY: Under whose orders was he treated as a Division II under-trial prisoner?

The Hon'ble Sir PROVASH CHUNDER MITTER: He was placed there automatically. If he applied, he might have been placed in the higher division.

Mr. SHANTI SHEKHARESWAR RAY: But under whose orders was he placed in Division II in the first instance?

The Hon'ble Sir PROVASH CHUNDER MITTER: It must be the Superintendent.

Mr. K. MAITI: Has the attention of the Government been drawn to the statement which is published in the papers by Mr. Aney himself in which he stated that the allegations made were all true?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes, an inquiry was made.

Mr. SHANTI SHEKHARESWAR RAY: Why was he not placed in Division I in the first instance?

The Hon'ble Sir PROVASH CHUNDER MITTER: Because he declined to ask for it.

Mr. R. MAITI: In regard to the statement made by Mr. Aney, do not the Government think it proper to contradict it?

The Hon'ble Sir PROVASH CHUNDER MITTER: I would like to have notice as this is a separate subject.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Inspection of the Muhammadan Marriage Registrars and Kazis' offices.

15. Mr. A. F. M. ABDUR-RAHMAN: (*a*) Is the Hon'ble Minister in charge of the Education (Registration) Department aware—

(*i*) that the Muhammadan Marriage Registrars and Kazis have got their own offices; and

(*ii*) that they are at times directed by the District Sub-Registrars and other Inspecting Officers to appear before them with their books and papers in places other than their own offices?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of issuing instructions to the Inspecting Registration Officers with a view to stop this practice?

MINISTER in charge of EDUCATION (REGISTRATION) DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) (*i*) and (*ii*) Yes.

(*b*) No; the orders are that a Marriage Registrar may be asked to bring his books and papers for inspection to a Sub-Registry office or its neighbourhood, when this is not likely to cause him considerable inconvenience or expense.

Sessions cases in certain districts.

16. Rai Sahib AKSHOY KUMAR SEN: Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing—

(*i*) the number of sessions cases disposed of by the Sessions Courts at Dacca, Mymensingh, Bakarganj and Faridpur during the years 1931 and 1932; and

(*ii*) the number of such cases pending in those courts?

The Hon'ble Sir WILLIAM PRENTICE: A statement is laid on the table.

Statement referred to in the reply to unstarred question No. 16.

(*i*)

	1931.	*1932.*
Faridpur	... 73	140
Dacca	... 119	100
Bakarganj	... 202	284
Mymensingh	... 237	385

(*ii*)

Faridpur	... 13 (pending on 2nd August, 1933).
Dacca	... 6 (at the end of July, 1933).
Bakarganj	... 59 (at the end of July, 1933).
Mymensingh	... 39 (at the end of July, 1933).

Jagannath Intermediate College, Dacca.

Rai Bahadur KESHAB CHANDRA BANERJI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether the Jagannath Intermediate College, Dacca, is a Government institution?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state why the services of the staff have not been incorporated in the Education Department?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) No: it is managed on an aided basis.

(*b*) The question does not arise.

Rai Bahadur KESHAB CHANDRA BANERJI: Is it a fact that the repairs of the Jagannath College Hostel and buildings have been entrusted to the Public Works Department?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Rai Bahadur KESHAB CHANDRA BANERJI: What is the reason for entrusting the work with the Public Works Department when it is not a Government institution?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Because the buildings have been transferred to Government, and it is the duty of Government to keep them in a state of proper repair.

Rai Bahadur KESHAB CHANDRA BANERJI: Are there any other colleges in Bengal in a similar position, the repairs of which have been entrusted to the Public Works Department?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I do not think similar circumstances exist anywhere else.

Hours of work of a professor or lecturer in Government colleges.

18. Rai SATISH CHANDRA MUKHERJI Bahadur: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state how many hours a professor or lecturer in a Government college works every day or in every week?

(*b*) What was the number of hours a professor worked every week in a Government college 20 years ago?

(*c*) Is it a fact that the number of professors have enormously increased in each subject and each subject has its own professor or lecturer?

(*d*) Do the Government contemplate reducing the number of professors or lecturers in Government colleges or compelling them to work a sufficiently reasonable number of hours every week?

(*e*) How many hours do the professors or lecturers work even now-a-days in first grade privately-managed colleges in Calcutta?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) The number of hours varies according to the subjects taught, but the general standard aimed at is from 16 to 18 hours a week spent on actual lecture work by teachers who have no administrative duties; this is exclusive of the time spent on the preparation of the lectures and on tutorial work.

(*b*) There are no records to show how many hours professors worked 20 years ago.

(*c*) Government are not aware of an enormous increase in the number of professors in each subject. The staff for each subject is fixed with due regard to University requirements.

(*d*) Government have already made certain reductions, where they were satisfied that circumstances justified such a course.

(*e*) Statistics obtained from one college in Calcutta show that the teachers there do about the same number of hours' lecture and tutorial work as teachers in Government colleges.

Ministerial officers in the Judges' Courts of the 24-Parganas district.

19. Mr. A. F. M. ABDUR-RAHMAN: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) what is the total number of ministerial officers working at present in the Courts of Judges, Sub-Judges, Sadar Munsifs and Subdivisional Munsifs, in the district of the 24-Parganas;

(*ii*) how many of them are *bona fide* residents of the district;

(*iii*) how many of them are Muhammadans; and

(*iv*) whether the minimum percentage of Muhammadan appointments has been reached in the District Judges' Courts?

(*b*) If the answer to (*a*) (*iv*) is in the negative, are the Government considering the desirability of reserving all future vacancies in the Judges' Courts for Muhammadans till their maximum percentage is arrived at?

The Hon'ble Sir WILLIAM PRENTICE: (*a*) (*i*) 230.

(*ii*) 134.

(*iii*) 49.

(*iv*) No.

(*b*) No, but there is a steady increase in the percentage of Muhammadan appointments and the District Judge is being addressed on the subject of expediting the rate of increase.

Allotment of seats to district and special constituencies under the coming Reforms.

20. Mr. A. K. FAZL-UL HUQ: (*a*) Will the Hon'ble Member in charge of the Appointment Department be pleased to state whether any report has been submitted by the Committee which was appointed to consider the question of the allotment of seats to various district and special constituencies under the coming Reforms?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to lay a copy of the report on the table?

(*c*) Was any definite principle followed in suggesting allocation of seats to Muhammadans in the various district constituencies?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state the total population of Muhammadans in the following districts and the number of seats recommended by the Committee for allotment to Muhammadans in each of these districts:—

Jessore, Tippera, Noakhali, Mymensingh, Burdwan, Birbhum, Bankura and Midnapore?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) to (*d*) The Committee has submitted an *interim* report, but Government do not propose to publish it or make statements regarding its contents until the final report has been submitted.

Willingdon Bridge toll.

21. **Rai Bahadur SATISH CHANDRA MUKHERJI:** (*a*) Will the Hon'ble Minister in charge of the Public Works Department be pleased to state what is the monthly income of the Bally Bridge toll on foot and vehicular traffic, since the toll is being levied?

(*b*) Do the Government contemplate—

(*i*) reducing the toll on vehicular traffic; or

(*ii*) introducing monthly ticket system for passengers who daily pass over the bridge?

The Hon'ble Nawab Khan Bahadur K. G. M. FAROQUI: (*a*) The monthly income from the tolls on the Willingdon Bridge was as follows:—

May, 1933—Rs. 4,584-6-9.

June, 1933—Rs. 4,175-4-9.

(*b*) (*i*) Not at present.

(*ii*) Government are prepared to consider this question and have instituted inquiries with a view to ascertaining if there is a demand for such monthly tickets.

Study of Persian in Government aided high schools in 24-Parganas.

22. **Mr. A. F. M. ABDUR-RAHMAN:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing for the 24-Parganas district—

(*i*) the number of high schools receiving Government grant, with their names;

(*ii*) the amount of the grant to each school;

(*iii*) the total number of boys in each school; and

(*iv*) the number of Mussalman boys in each school?

(*b*) Will the Hon'ble Minister be pleased to state whether there are arrangements for the study of Persian for Muhammadan boys in all such schools receiving Government grant?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) A statement is laid on the table.

(*b*) There are arrangements for the study of Persian in 24 out of those 30 schools.

Statement referred to in reply to unstarred question No. 22 (a).

Names of schools receiving Government grant.	Amount of grant per month.	Total number of boys in it.	Total number of Moslem boys.
	Rs. a.		
1. Arbelia J. V. H. E. School	90 0	182	50
2. Barisha H. E. School	180 0	353	14
3. Baruipur H. E. School	135 0	197	12
4. Bishnupur Siksha Sangha	315 0	332	34
5. Behala High English School	135 0	244	1
6. Barrackpore D. P. H. E. School	157 8	203	13
7. Basirhat H. E. School	135 0	365	74
8. Bhatpara H. E. School	135 0	441	8
9. Diamond Harbour H. E. School	157 0	405	27
10. Gustia K. N. H. E. School	117 0	174	49
11. Harinavi H. E. School	135 0	298	3
12. Hatuganj H. E. School	135 0	203	28
13. Magrahat H. E. School	135 0	175	57
14. Mozilpur J. M. Training School	157 8	326	9
15. Naihati Mahendra H. E. School	157 8	193	8
16. Nawabganj H. E. School	99 0	307	18
17. Nibadhai H. E. School	135 0	286	64
18. Panihati T. N. H. E. School	108 0	180	2
19. Rajibpur A. V. H. E. School	135 0	160	37
20. Sarengabad H. E. School	99 0	230	34
21. Sarisha H. E. School	135 0	309	59
22. Sodepur H. E. School	108 0	222	9
23. Kanchrapara Harnett H. E. School ..	135 0	386	20
24. Govindapur H. E. School	135 0	197	10
25. Mathurapur H. E. School	135 0	159	8
26. Purna H. E. School	135 0	168	3
27. Gabbaria H. E. School	135 0	168	6
28. Budge Budge P. K. H. E. School ..	135 0	206	8
29. Niramisha S. M. I. Q. H. E. School ..	90 0	128	99
30. Karanjali H. E. School	112 8	182	14

Smugglers of excisable articles in Howrah.

22. Dr. AMULYA RATAN GHOSE: (*a*) Is the Hon'ble Minister in charge of Agriculture and Industries (Excise) Department aware—

(i) that illicit distillation of liquor is going on now-a-days on a very large scale within the municipal limits of Howrah;

(ii) that there is a very big organisation of such men who carry on trades, such as smuggling of opium, charas, cocaine, liquor, etc., in Howrah;

(iii) that complaints and information regarding occurrences of smuggling and illicit distillation to the authorities at Howrah go unheeded and undetected in many instances;

(*iv*) that informers have to travel all the way to Calcutta to take the help of the Excise Department there to seize the distilleries and dens at Howrah;

(*v*) that manufacturers of illicit liquor within the municipal limits of Howrah make fabulous profits and they do not care to pay small amounts of fines if detected at all;

(*vi*) that several public meetings were held in the different parts of Howrah in which resolutions were unanimously passed condemning the police and Excise Department of Howrah on their failure to put a stop to the illicit distillation and sale of liquor at Howrah?

(*b*) Will the Hon'ble Minister be pleased to state what steps the Government propose to take to eradicate completely the evils from Howrah?

MINISTER in charge of AGRICULTURE and INDUSTRIES (EXCISE) DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) (*i*) Yes.

(*ii*) There is a big organisation of smugglers of opium, cocaine and charas in Howrah; smugglers of liquor are rare: but there is much illicit distillation.

(*iii*) No. Very few members of the public come forward to give information to the Excise Department.

(*iv*) There is an Inspector of Excise in charge of the barracks at Howrah at No. 1, Grand Trunk Road, and there is also a sub-inspector who lives in the town of Howrah. Informers may give information to these officers and need not travel all the way to Calcutta.

(*v*) The profits of illicit distillation are large, although not fabulous. It is true that light sentences of fine have little or no deterrent effect.

(*vi*) There has been some agitation in the press against the activities of smugglers and illicit distillers at Howrah. But no resolution condemning the police and Excise Department at Howrah has come to the notice of Government.

(*b*) It is not possible in the immediate future to eradicate the evil completely; steps are being taken to minimise it.

Dr. AMULYA RATAN GHOSE: With reference to (*a*)(*ii*), were there certain excise raids in Howrah which were conducted by the Excise Department of Calcutta.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I must ask for notice.

Rai Bahadur KESHAB CHANDRA BANERJI: What is the reason for such increase of smuggling? Is it due to lack of supervision on the part of the officers or is there any other reason?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Certainly not on account of lack of supervision.

Rai Bahadur SATYENDRA KUMAR DAS: With reference to (*b*), what steps are being taken to minimise the evil?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Three Sub-Inspectors have already been appointed, and Government propose to appoint one Superintendent and two additional Sub-Inspectors and several peons to tackle the situation.

Dr. AMULYA RATAN GHOSE: With reference to (*a*)(*iv*), is it not a fact that informers being dissatisfied with their pay, take their information to the Calcutta authorities who raid these illicit distilleries in Howrah?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government have no information.

Rai Bahadur SATYENDRA KUMAR DAS: With reference to (*a*) (*v*), why are light sentences awarded when they are considered to have no deterrent effect?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is more than I can say.

Annual test of the copyholders in the Bengal Government Press.

24. Mr. MUKUNDA BEHARY MULLICK: (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state whether it is a fact that in connection with the annual test of the copyholders held on 6th August, 1932, in the Bengal Government Press, Alipore, the second paper was communicated beforehand to some of the examinees and that the test was held and promotion made in spite of protest?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether any inquiry was made into the matter? If not, why not?

(*c*) If an inquiry was made, what are the results thereof?

The Hon'ble Mr. J. A. WOODHEAD: (*a*), (*b*) and (*c*) The member is referred to the answer given in reply to a similar question by Rai Bahadur Gokul Chand Bural at this meeting.

Grouping system of readers in the Bengal Government Press.

25. Mr. MUKUNDA BEHARY MULLICK: (*a*) Is the Hon'ble Member in charge of the Finance Department aware—

(*i*) that a "grouping system" has been introduced in the Reading Branch in contravention of section 376 of the present Handbook of the Bengal Government Press; and

(*ii*) that this "grouping system" has necessitated 8 highly paid posts of Readers-in-charge?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state the reasons for the introduction of the said system?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) (*i*), (*ii*) and (*b*) The member is referred to the answer given in reply to a similar question by Rai Bahadur Gokul Chand Bural at this meeting.

Piece-workers in Government Press.

26. Mr. MUKUNDA BEHARY MULLICK: (*a*) Is the Hon'ble Member in charge of the Finance Department aware that the Bengal Piece-workers' Committee, 1926, recommended and the Government accepted the principles of the recommendation that arrangement should be made for bringing the piece-workers more directly under the Civil Service Regulations for the purposes of pension?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether the system of pension has been introduced in the Bengal Government Press in so far as the piece-workers are concerned? If not, why not?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) and (*b*) The member is referred to the answer given in reply to a similar question by Rai Bahadur Gokul Chand Bural at this meeting.

Average cost per student in certain Government colleges.

27. Mr. A. K. FAZL-UL HUQ: Will the Hon'ble Minister in charge of the Education Department be pleased to lay a statement on the table showing for the period 1931-32—

(*i*) the average cost incurred by Government per each student in the following colleges:—

(*1*) the Presidency College,

(*2*) the Krishnagar College,

(*3*) the Hooghly College,

(*4*) the Chittagong College,

(*5*) the Sanskrit (Hindu) College; and

(*6*) the Islamia College; and

(*ii*) what was the proportion of Muslim students in each of the above colleges?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: A statement is laid on the table.

Statement referred to in the reply to unstarred question No. 27.

Name of college.	Average cost incurred by Government per student in 1931-32.	Proportion of Moslem students in 1931-32.
	Rs.	Per cent.
Presidency College	379	14½
Krishnagar College	380	6
Hooghly College	398	10½
Chittagong College	220	32
Sanskrit (Hindu) College	580	Nil.
Islamia College	276	100

Rai Bahadur KESHAB CHANDRA BANERJI: What is the total amount of receipts per student in each of these colleges for the period 1931-32?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I must ask for notice.

Motion for amendment of Standing Orders.

Mr. NARENDRA KUMAR BASU: May I ask your leave, Sir, to move my motion for the amendment of the Standing Orders, of which I have given notice?

Mr. PRESIDENT: The agenda on this matter is already in the hands of the members. The question before the House is that Mr. Narendra Kumar Basu be given leave to move his motion. Does any member object? (Pause.)

I take it that no one objects, so leave is given.

Mr. NARENDRA KUMAR BASU: I beg formally to move and hope that further necessary action will be taken by you.

Mr. PRESIDENT: Yes, you may leave that to me.

I beg to move for leave to amend Standing Orders as follows:—

(*i*) That after Standing Order 7 the following new Standing Order be inserted, namely:—

7A. (*1*) On the day or days allotted by the Governor for the disposal of non-official business under rule 6, the President may, if he thinks fit, allot the maximum limit of time that may be made available for any item of such business, other than non-official Bills. Limitation of time of discussion of non-official business other than Bills.

(*2*) As soon as the maximum limit of time for discussion is reached, the President may forthwith put every question necessary to dispose of the motion under discussion.

(*3*) Nothwithstanding anything contained in sub-section (*4*) of Standing Order 34, the President may also, in cases where he has allotted the time under sub-section (*1*), prescribe a time-limit for speeches shorter than that referred to in that Standing Order.

(Section 20A.)

(*ii*) That after Standing Order 68 the following new Standing Order be inserted, namely:—

68A. Notwithstanding anything contained in sub-section (*1*) of Standing Order 6 or in sub-section (*2*) of Standing Order 7, on the written requisition of not less than twenty-five members, sent in at least two days in advance, that a resolution be taken out of its turn, and with the consent of the Hon'ble Member in charge of the Department concerned and of the President, the President shall intimate that leave is granted by the House to the course proposed and shall state the time at which such resolution shall be taken: Procedure for taking resolutions out of turn.

Provided that not more than two resolutions shall be so taken out of their turn on any one day:

Provided also that in fixing the time at which the resolution shall be taken, the President shall see that members are given at least 24 hours' notice of the same.

(Section 77A.)

Amendment of Standing Order 6. (Section 19.)

(*iii*) That in sub-section (*1*) of Standing Order 6—

(*a*) the words "or a resolution on which a member has indicated his first priority and which remains undisposed of at the end of the session" shall be omitted;

(*b*) the words "and such resolution shall, if the member who has given notice of it intimates in writing before the holding of the ballot for the next session his desire to proceed with it, be carried over to the next session and shall, together with any amendments thereto of which notice has been given, be set down for discussion for such day or days as are available for non-official business in the order in which it stands and shall be given precedence to the resolutions to be balloted for for that session" shall be omitted.

Amendment of Standing Order 7. (Section 20.)

(*iv*) That in sub-section (*2*) of Standing Order 7, the words, figures and brackets "except as provided in sub-section (*1*) of Standing Order 6" shall be omitted.

Amendment of Standing Order 63. (Section 70.)

(*v*) That in the second proviso to Standing Order 63, the words and figure "exclusive of any resolution carried over under the provisions of Standing Order 6" shall be omitted.

Explanatory Note.

Some action should be taken at once to put a stop to the present deadlock in the case of the Agenda Paper of resolutions.

2. Under the rules as they stand—*vide* section 20 (*2*), the order of priority of resolutions is determined by ballot. Under section 19 (*1*), the order of priority as settled by ballot is final.

3. In addition to the ballot, section 19 (*1*) also restricts the order of precedence by providing that first priority resolutions not disposed of at one session may be carried over to the next session and "be set down for discussion in the order in which they stand" and shall be given precedence to the resolutions to be balloted for for that session.

4. The motive underlying the latter procedure, which was adopted by the Council in 1926, was to give each member an opportunity, once during his membership, of bringing a matter before the House for discussion.

5. While this is an estimable idea, it has resulted in over-burdening the order paper and shutting out important resolutions from being brought before the House for discussion; in other words, of making the order paper wooden and inelastic? One result of this inelasticity is that frequently the House is counted out for want of a quorum on the ground that it is bound by the rules to go through a resolution paper containing resolutions which are out of date or of minor importance or of parochial interest, and the day is wasted.

As an instance of an important resolution being shut out for a considerable time, reference may be made to the retrenchment resolution of Mr. J. N. Gupta. This resolution first appeared on the order paper in July, 1931, but it was not taken up till the session of 1st February, 1932.

6. A glance at the Lists of Resolutions issued since 1931 compared with those that have been dealt with will show example after example of the Council's time being wasted on comparatively unimportant and parochial matters while resolutions raising important questions relating to the province as a whole have been crowded out by the mechanical process of the ballot.

7. While it is important that the interests of minority members should be safeguarded as far as possible, it is more important that facilities should be given for the discussion of important matters affecting the major interests of the province. It may be pointed out here that it is not proposed to interfere with the procedure already prescribed for non-official Bills as the same difficulty has not been felt in regard to them.

8. In the amendments proposed, it is decided to overcome the difficulties by attacking them from three directions.

The first amendment proposes to empower the President to fix a time within which a resolution may be disposed of, and to limit the duration of speeches, in his discretion.

This method is not unknown in our rules and standing orders and to some extent is followed in section 89, in regard to the Budget, where the Governor fixes the time and the President prescribes the duration of the speeches.

It is again found in section 90, in regard to the voting of Demands, where the Governor fixes the time and when that time has expired the guillotine falls.

9. The second amendment empowers the House, with certain restrictions, to select important resolutions notwithstanding the order of precedence obtained by the ballot.

This power of selection is also not unparliamentary as in the House of Commons, in Standing Order 27A, this power is given to the Speaker, or in Committee to the Chairman of Ways and Means, and the Deputy Chairman, on his own authority. The Standing Order runs—

"27A. In respect of any motion or any Bill under consideration either in committee of the whole House or on report, Mr. Speaker, or in committee the Chairman of Ways and Means, and the Deputy Chairman, shall have power to select the new clauses or amendments to be proposed, and may, if he thinks fit, call upon any member who has given notice of an amendment to give such explanation of the object of the amendment as may enable him to form a judgment upon it."

In the amendment proposed, the initiative is left to the vote of the House who should be the real masters of the situation under the guidance of the President.

10. Care has also been taken to guard against either the House or Government being taken by surprise, as, in the case of Government, the previous sanction of the Member-in-charge is to be made a necessary precedent to the resolution being taken up and in the case of the House, the President has to concur and to fix a suitable time. It is also provided that at least two days' notice of the requisition should be given, and that members should have at least one day's notice.

The order of precedence obtained by ballot is also safeguarded to some extent by the proviso that not more than two resolutions shall be taken out of their turn on any one day and this also tends to safeguard the interests of minority members.

11. The third amendment proposes to repeal the provisions of Standing Order 6 (*1*), section 19 (*1*), which permits the carrying over of first priority resolutions.

The result of this provision has been the carrying over of resolutions, which, frequently, by the passage of time, have lost their importance or urgency, and which thereby block the way to the discussion of more important and up-to-date matters which may have arisen during the course of time between one session and another.

The amendments following are consequential to the amendment of Standing Order 6 (*1*).

12. Arguments may be used against the proposed changes—that the rules themselves provide parliamentary weapons to deal with the difficulty, *viz.*—

(*1*) the closure;

(*2*) opportunities to move the adjournment of House;

(*3*) opportunities to move special motions under section 78A.

In regard to the closure, it may be pointed out that this weapon is only meant to be used when dilatory tactics are deliberately being used to prevent a vote being taken and not with the intent to stifle discussion. Moreover, the closure works arbitrarily on the minority and it is not the intention that the minority should not be given a

hearing or that they should not be permitted to ventilate grievances or bring up proposals before the House.

The frequent application of the closure to get over the difficulty would, therefore, be a misuse of the power given by section 46.

13. In the same way frequent recourse to section 79 of the Rules and Standing Orders—adjournment of the Council—to bring up proposals for discussion which are ordinarily composed in a resolution would be a misuse of the privilege, and the same remarks apply to section 78A—special motions.

14. There is no doubt that if the amendments proposed are embodied in the Rules and Standing Orders, it will result in the lightening of the resolution paper and of effecting a more useful outturn of public work of the class contemplated by resolutions, and, most important of all, result, perhaps, in the allotment of more time by the Governor for the exercise of this very important function of the Council.

LEGISLATIVE BUSINESS

NON-OFFICIAL MEMBERS' BILLS.

The Bengal Money-Lenders Bill, 1933.

Khan Bahadur Maulvi AZIZUL HAQUE: I beg to move that the Bengal Money-Lenders Bill, 1933, as reported by the Select Committee, be taken into consideration.

The motion was put and agreed to.

Clause 1.

Rai Bahadur KESHAB CHANDRA BANERJI: I beg to move that for clause 1 (*2*) the following be substituted, namely:—

"(*2*) The Local Government may extend the operation of this Act or of portions thereof in such areas and in respect of such class of money-lenders as the Local Government may by notification in the *Calcutta Gazette* direct."

Sub-clause (*2*) of clause 1 as it has emerged from the Select Committee says that it extends to the whole of Bengal.

Provided that nothing in this Act shall apply to any loan made within the limits of the ordinary original jurisdiction of the High Court or under a contract made within those limits.

My object in moving this amendment is to show that in the sub-clause an unreasonable exception has been made in respect of those areas which are under the ordinary jurisdiction of the Calcutta High Court, and Calcutta is proposed to be exempted from the operation of this Act. It is not understood why there should be any discrimination between the city of Calcutta and the rural areas since the principle of

the Bill is to protect debtors from the rapacity of *mahajans*. Sir, money-lending as a business proposition is resorted on a much larger scale in Calcutta and in urban areas than in the *mufassal* where the business is confined to a limited number of men. In the villages very small sums are borrowed, mostly by the cultivators and in Calcutta large investments are made, and when the principle underlying the Bill is to reduce the rate of interest to the minimum possible, I do not see any reason why there should be any differential treatment in the case of Calcutta money-lenders who are immensely rich and can well afford to forego high rates of interest whereas in the villages money-lenders are in some cases widows and minors who have to depend for their subsistence upon this business.

The purpose of my amendment is to give the Local Government power to extend the operation of this Act or of portions thereof to such areas and in respect of such class of money-lenders as the Local Government may by notification in the *Calcutta Gazette* direct. I think it is better to empower the Local Government to determine which areas and which class of money-lenders should be brought under the operation of this Act. I do not think any long speech is necessary to elucidate my point; the amendment is plain enough. In pressing this amendment, I have also in view the case of Banks, Provident Societies, Insurance Companies and bodies corporate who, in my opinion, should not come within the purview of this enactment. I will explain my reasons for asking for their exemption if I get an opportunity of moving my amendment No. 24.

Babu SATISH CHANDRA RAY CHOWDHURY: I have tabled an identical motion, but I will content myself only with supporting the motion that has already been moved by my friend Mr. Banerji. The position is this, that the Bill as drafted extends its provisions to the whole of Bengal, and to all classes of money-lenders. But what we take exception to is that if the Bill is applied to all persons and to all bodies, individuals as well as bodies corporate, in that case a very disastrous result will ensue. My reasons are these: It is undeniable of course, that a class of money-lenders used to be very extortionate in their demands for interest, and it cannot be questioned also that they abused their position in various ways, some of which were certainly in the mind of the author of the Bill when he drafted some of these provisions. To mention one only out of many, the habit of not giving full information to the debtors with regard to the interest which had accumulated, and in some cases the non-crediting of interest paid by debtors and the institution of distress suits for the recovery of the whole amount. These are some of the abuses of which some of the money-lenders were certainly guilty, and the result was a demand for a change in the law or for introduction of some law both to reduce interest as well as to remove the abuses. While things were drifting in

this way and the general body of debtors were more or less in a helpless condition and were entirely at the mercy of unscrupulous money-lenders, then came into existence two agencies, the co-operative credit societies and the several loan companies in the *mufassal* areas. These agencies came to the rescue of the debtors; on the one hand they reduced the interest and introduced some sort of order and system in the midst of chaos, and the result was that the ordinary debtors began to flock to these agencies for credit, and by this time these incorporated bodies have acquired both credit and prestige in the country as well as the confidence of a large number of debtors. There was then no legal remedy against the extortions and malpractices of a class of money-lenders as has been said by the author of the Bill. I do not refer to all of the money-lenders, because there are money-lenders and money-lenders, just as there are men and men. In this state of things these bodies really did very great service in bringing relief to the general body of debtors. Now these loan companies and these credit societies work in a way which will at once show that this Bill is going to affect them considerably. Very often they started with a small capital, sometimes of Rs. 5,000 to Rs. 10,000 and received deposits sometimes to the extent of several lakhs, and this money they invested among the debtors at a low and fixed rate of interest. There was no caprice or whims in their transactions. These companies are directed, regulated and governed by a body of responsible people, most of whom are cultured and educated men. They have a regular system to go upon, unlike the ordinary individual money-lenders. There is no question of their having ever abused their power in the way of inducing the debtors to borrow from them by one sort of promise and then breaking it. They play with open cards, with rules which are well known to the general body of debtors, and there has not been any question of their at any time having thrown dust in the eyes of the debtors. If there is any change in the fixed rules or fixed rate of interest, that would be done after due notice was served to the members and directors. So, so far as these companies and these bodies corporate are concerned, they have rendered great service at a very critical time in the condition of the general body of debtors in the country. Therefore, it is well for the supporters of this Bill that they should pause and consider what would be the effect of this legislation on these bodies. I take it, the effect will be this: These incorporated bodies and loan companies have borrowed or received deposits at certain rates of interest. Latterly, these rates went high during the boom on account of the high price of jute, and the interest they promised to pay to depositors sometimes went up to 10 or 12 *per cent.* Having received deposits at that rate of interest, they had to invest them among the debtors at a higher rate, though not a very high rate and certainly not exactly a usurious rate of interest, but at 15 to 20 *per cent.* If this Bill is to apply to them, the result will be that they will not be able to realise more than 12½ *per cent.* in the case

of secured debts, as I understand from the provisions of the Bill. They issue generally secured loans and seldom unsecured ones. While they will have to pay depositors interest ranging from 10 to 12 *per cent.*, if not more, they will not be able to charge more than 12 *per cent.* for their loans. They have got their own establishment charges to meet, they have to meet their income-tax demands; they have also to meet other charges, namely, maintenance and upkeep. The result will be that they will not be able to meet the demands of the depositors in the matter of interest. If it were a Bill which affected only their future relations and would not have retrospective effect, then I could imagine that matters would adjust themselves automatically in future; that is to say, the depositors would agree to a lower rate of interest and the banks also would be able to regulate their affairs thereafter accordingly. But considering the fact that this Bill has retrospective effect, the result will be that the present depositors will on no account be willing to receive less than what has legally accrued to them, consequently a run and a collapse of these banks and loan offices. May I ask the members of this House if that position—the collapse of the banks and loan offices—is at all desired or coveted. I appeal to those who hold the brief for the agriculturists—for whom we too have unstinted sympathies—to consider what will be the position if these banks and loan offices go out of existence. The result will be that there will be no credit facilities left to the agriculturists. It should be remembered—and we have it from an answer given by an Hon'ble Minister—that the land mortgage banks have not come into existence and nobody knows how soon we shall have those banks, which are wistfully looked up to as the saviours of the debtors in their present position which are calculated to remove the indebtedness of the mass. Even if these banks were to come into existence shortly—although we have not got any assurance from the Hon'ble Minister to this effect—it cannot be expected that in the present financial position of Government, these mortgage banks will have sufficient funds to clear up all the indebtedness of the general body of debtors and further to meet their future demands. That being the position, the only alternative for the poor debtors, whether they be agriculturists or not, against the so-called rapaciousness of the money-lenders lies with those banks and loan companies. Therefore, considering the great services rendered by these institutions in the past—of course, our memories are very short and public memories are notoriously short—it is in the interest of these poor people that these loan companies and banks should be in the field and excluded from the operations of this Bill, unless of course there is to be a complete and all-round bankruptcy and loss of credit, which means incalculable loss to the general body of the people. It is for these reasons that I plead and plead earnestly that these banks and loan companies must be kept out of the operations of this Act for the time being at least. We have put it very mildly and moderately in this

particular motion, *i.e.*, we have given Government the power to extend the operation of this Act from time to time to several classes of money-lenders and in such areas as they think fit. It is for this reason and for the fact that we have confidence in Government in this matter that we have in this particular motion proposed to empower Government regarding the extension of operation of the measure. The Government knows best how far the financial position of the people will be affected by this particular piece of legislation. They have got all the information at their disposal, and they may be trusted to meet the situation by slowly and cautiously extending the operations of the Act to the several classes of money-lenders and to the various areas. It is not a demand which is altogether without any precedent. I take it that this Money-lenders Bill, as well as the Usurious Loans Act which this Bill proposes to amend, are practically a copy of the English Money-lenders Act. In the English Money-lenders Act banks and companies and insurance societies have all been kept out of the operations of the Act. There must be very good reason for this, and one reason probably is not to hamper the financing of industries; in this country where united organisation in the matter of helping our industries is absolutely necessary the reason applies with greater force. Many of these banks, as far as I am aware, being in touch with some of them, really help and are helping some of the local industries, and it is, therefore, meet and proper that these institutions should remain in existence. In trying to make this experiment, we should not go beyond the provisions of the English Act, we ought to be even more cautious, if possible, considering that our resources—whether we are money-lenders or debtors—are certainly much below what is to be found in other countries and places. For all these reasons I ask the hon'ble members, and particularly the author of the Bill, who in his first Bill seems to have had this point in his mind, to consider this matter carefully. We find that in his first Bill these bodies were excluded from the drastic clauses (*5*), (*6*) and (*7*). Therefore, there is no reason why in the present Bill the member in charge should introduce a provision of such a drastic character which covers all, irrespective of their past conduct, in a sweeping manner. I may tell the House that this weapon may ultimately recoil against those who want to wield it. I do not propose in this motion to exclude banks and insurance companies for all time to come. I give power to Government to select the time and to decide on the manner as to how they should be brought within the purview of this measure, and I think it is a reasonable demand to which the House ought to agree.

Khan Bahadur Maulvi AZIZUL HAQUE: I am afraid I have to oppose the motion moved by my friend Rai Bahadur Keshab Chandra Banerji and sponsored by another friend, Babu Satish Chandra Ray Chowdhury. As an answer to his softness and feelings in favour of

the loan offices, may I put before him the evidence of one of the directors of a loan company given before the Provincial Banking Inquiry Committee? His evidence is to the effect that usury is more practised by these banking companies and loan offices, than by private persons. (Question.) I am telling him that he was a director of one of the well-known loan offices of Brahmanbaria. He gave a concrete case and that is that his bank gave a loan of Rs. 1,000 and got back Rs. 18,000. My friend has raised a note of warning at this stage that it will recoil on the agriculturists. May I only quote to him one passage from an apt remark of a distinguished Professor of Economy, I mean Professor Hadley:—

"Wherever a large part of the borrowers are so ignorant that there is no effective competition among capitalists, and no market rate of interest, such prohibitions (usury laws) appear to be justified. A law fixing a maximum rate of interest which can be collected from such borrowers may cause temporary hardship by making some men unable to borrow; but even this is much better than an assumption of obligations which purchases temporary relief at the expense of future independence."

I am quoting this passage simply to show that it is not in the interests of the agriculturists that they should purchase temporary relief at the expense of future independence. If he will refer to the evidence given before the Banking Inquiry Committee, he will find that some of these loan offices are the most usurious and charge a very high rate of interest. There is absolutely no reason why there should be a distinction made between a private *mahajan* and another who has taken advantage of the law and gone by the name of a loan office. I oppose this on the ground that we must definitely take our stand against all kinds of usuries—we must either stamp out usuries of the worst character or leave the position as it is. We should take note of the manner under which the problem is dealt with in other places, and my friend will do well if he will remember that this Bill is only a modest measure which does not affect any amount of private payment by a debtor to his *mahajan* but only touches loans which came into existence after the operation of the Usurious Loans Act and are brought before the Courts for recovery. (A VOICE: What about the English Act.) Well, my friend should go to England and see what the practice is there. The money-lending problem is not the same there as it is here, and the comparison with the English Act is as out of place as it is with other enactments.

The Hon'ble Sir WILLIAM PRENTICE: Sir, may I indicate the attitude of Government on this matter? I would suggest to the mover of this motion that he should withdraw it, because Government propose to support amendments Nos. 15 to 18 which give Government power similar to those which are proposed to be conferred upon Government

in the present motion. We prefer to have the Act extended to the whole of Bengal, outside the Original Jurisdiction of the High Court, and to deal with the question as to what classes of persons it is to be extended to under clause 1 (*3*). I suggest that this motion may be withdrawn and the question discussed under amendments Nos. 15 to 18.

Rai Bahadur Keshab Chandra Banerji's motion was then by leave of the House withdrawn.

Babu KHETTER MOHAN RAY: Sir, I beg to move that the proviso to clause 1 (*2*) be omitted.

In moving this amendment, I want to secure uniformity in law relating to money-lending. Money-lending is a general term applicable to all kinds of loan transactions, whether money is lent to persons engaged in trade or agriculture. Now, Calcutta is the principal trade centre to which all the trade of the country converges. Joint-stock banks, bankers and money-lenders, and traders borrow money and purchase goods respectively for their business at Calcutta. Calcutta banks, bankers and merchants charge compound interest at 12 *per cent.* with monthly and quarterly rests. It cannot be said that there is no connection between the trade and money-lending in the *mufassal* and those at Calcutta. On the other hand, as pointed out above, they are interdependant and the *mufassal* trade and money-lending will be affected by this law if Calcutta is excluded from its operation. There is another reason why Calcutta should not be excluded. The capitalists and the few joint-stock banks which may survive the blow dealt by this Bill, will flock to Calcutta, where restrictions imposed on money-lending will not apply; and agriculture and trade in the *mufassal* will suffer. In short, exclusion of Calcutta from the purview of the Bill will have the effect of driving capital to Calcutta from the *mufassal* where it is badly needed.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I oppose this motion. I doubt whether this Legislature has the power to interfere with the Ordinary Original Jurisdiction of the High Court. There is obviously a good ground that the Ordinary Original Jurisdiction of the High Court should not be affected by this Act. In that view I oppose the motion.

The motion was then put and lost.

Mr. ANANDA MOHAN PODDAR: I beg to move that in the proviso to clause 1(*2*), in lines 2 and 3, in place of the words "the limits of the Ordinary Original Jurisdiction of the High Court" the following be substituted, namely:—

"the area of the Calcutta Corporation".

The limits of the Ordinary Original Jurisdiction of the High Court do not include Alipore, an extensive area of Calcutta, and they also do

not go to cover many places like Tallah and Cossipore in the northern part of Calcutta. These places occupy a similar position as those under the Ordinary Original Jurisdiction of the High Court so far as importance of loan business, trade and commerce is concerned. If the area under the Original Jurisdiction of the High Court is exempted from the operation of this Act under this proviso, there cannot be any justification why Alipore occupying a similar position should not be exempted. The area under Alipore is, as I have said before, a part of Calcutta, and it should be included in the proviso; otherwise, the result will be that transactions will be made within the jurisdiction of Calcutta where the Act is not applicable, and in this connection I would remind the Khan Bahadur that transactions are usually made according to the convenience of the creditor and the debtor. So, if the whole area under the Calcutta Corporation is included in the Act, I think the object of the Bill will be better served. In that case, the poor debtor will not be unnecessarily dragged to Calcutta to execute the bond according to the convenience of the creditor.

Mr. P. BANERJI: Sir, I rise to oppose the motion moved by my friend, Mr. Poddar. I must point out to him that whatever he has said is not at all convincing. The Original Jurisdiction of the High Court and the municipal limits of Calcutta are two different things altogether. He is perhaps not aware that the *Dandupunt* system is already in existence within the Original Jurisdiction of the High Court. We have left out the headquarters of the 24-Parganas, *i.e.*, Alipore. Does it not stand to reason that when all the districts of Bengal will be under this Act, why the headquarters of a particular district should not be brought under this Act? If this Bill is passed into law as it is, the people of Alipore will be in a position to derive the benefit which this legislation contemplates to confer. Therefore, I think, that the headquarters of the 24-Parganas should also come under this Act. With this view I oppose this motion.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I oppose this amendment on the simple ground that my friend Mr. Poddar has forgotten, though he was a member of the Select Committee, the object for which this section, as it now stands, was drafted. I don't think I am divulging a secret, but it is a well-known fact that near about Calcutta, which stands as the larger Calcutta, but outside the Original Jurisdiction of the High Court, there is a large section of labour population and a certain section of people is habituated to go there and molest them as their pay-day draws nigh. We have not yet been able to deal with that class of people. But I do not see any reason why a labourer getting a small pay of, say, Rs. 15 will not get the benefit of the Act. According to Mr. Banerji, there is a population of about 9 lakhs of labourers in the neighbourhood of Calcutta, and they will have to go

without any relief in their debt problems. I may refer my friend in this connection to the statement prepared by the Indian Jute Mills Association from which it will be found that the rate of interest charged to the labourers in most of the mills in Calcutta and its neighbourhood varies from 75 to 150 *per cent.* and in some cases it is 350 *per cent.* I want to know from my friend as to how he wants to deal with this problem. I strongly oppose the motion.

Mr. Ananda Mohan Poddar's motion was then put and lost.

Rai Bahadur SATYENDRA KUMAR DAS: I beg to move that to clause I (*2*) the following proviso be added, namely:—

"Provided also that nothing in this Act shall apply to any non-agricultural loan made within any municipal area constituted under the provisions of the Bengal Municipal Act, 1932, and at such trade centres as may be notified by the Local Government in this behalf."

I hope we are not out to penalise all kinds of loan. We all admit that some relief should be given to our heavily indebted agriculturists. So, I propose to confine that the provisions of this Act should on no account be allowed to jeopardise other loans than that of the agricultural loan.

There is absolutely no reason why you should penalise industrial loan because you want to help the agriculturists. Agriculture and industry are two different things. The demand and supply of industrial loan are not, in the normal course of things, controlled by the demand and supply of agricultural loan. That being so, what reason is there to bring in industrial loan within the circumference of this Act. If we do that, people outside the Council would laugh at us. They will say—we do not know economic loans, which control the demand and supply of various kinds of loan at the same time and in the same country.

If you allow the difference of rates of interest between (*1*) secured, and (*2*) unsecured debts, you then must allow the difference of rates of interest between agricultural and industrial loans. The principle is the same. Levelling is a bad principle for equalising the rates of interest. If you force this levelling principle by legislation, which I hope no wise Government should do, you will in no time disturb the free movement of our indigenous infant industries. You will do incalculable injury to our industry.

And the pity of the whole thing is that you will do it in ignorance of economic laws, and you will do it in the name of misguided patriotism. Economic laws we cannot disturb by this sort of legislation. It is of doubtful good to the country.

This Act, Sir, I make bold to say, will not touch the fringe of our rural indebtedness. This Act is only a patchwork. Land mortgage

banks are still in the womb of futurity. The whole thing is awaiting an experiment. An agricultural debt of Rs. 150 to 200 crores, three-fourths of which is never repaid and can possibly be never repaid, is a problem which I again make bold to say cannot be solved by usury law of this kind or that.

If this huge agricultural debt is left to run its own course, the revolt of the agriculturists is only a matter of course. You cannot stop it. Many of us have already hinted at it.

This Act is not sufficient to meet the demands of the present situation. But we agree to this Act, because there is a pious hope that it may save the *ryots* against future bad bargains.

But in doing so and helping the agriculturists, we must not chase the industrialists; more particularly when Bengal is running very slow in this matter in comparison with Bombay.

Sir, there are famous trade centres and municipal towns where loan transactions are carried on in the usual course of demand and supply. In such trade centres there is no agricultural loan business. What I propose is this, that such trade centres should be excluded from the operation of this Act, because the exclusion of these trade centres will in no way affect the agriculturists. So what will not affect them, we have no business to disturb.

Mr. ANANDA MOHAN PODDAR: I beg to move that in clause 1 (*2*), after the proviso, the following further proviso be added, namely:—

"Provided also that nothing in this Act shall apply to any loan made within the area which has been or may hereafter be constituted a Municipality under the provisions of the Bengal Municipal Act, 1932, and at such trade centres as may be notified by the Local Government in this behalf."

The object of the Bill is mainly to give relief to the agriculturists. For this reason Calcutta has been exempted from its operation. The provisions of this Bill are likely to affect the traders in general, as internal trade and industry depend mostly on loans and credit. Agricultural loans are seldom transacted in municipal towns, so these areas and trade centres, where usually trade and commerce are prominently in existence should also be exempted from the operation of this Bill. Some provisions of this Bill, such as clauses (*3*) and (*6*), by which the rate and amount of interest are going to be regulated, will hard hit the money market in Bengal. This will literally stifle the trader's capital and ruin his business to a certain extent. The rate of interest always depends on the laws of demand and supply. Credit facilities being very few in this land, any restriction on the rate of

interest will make it very difficult to get money for the purpose of trade. For this reason, I propose that this Bill should not be applicable to municipal towns and other trade centres of the province in the same way as it will not be applicable to Calcutta.

Dr. NARESH CHANDRA SEN GUPTA: I agree with one thing that the Rai Bahadur has said, that this Bill will not touch the fringe of the problem. No one, and I think not even the Khan Bahadur himself, believes that this will be an effective remedy for the great evil with which we are faced now. It is only an attempt to stem the tide of the high rate of interest. It is possible that by this means we may be able to reduce the rate of interest to a certain extent only. If there is the necessity of stemming the tide in the case of agricultural loans, there is also the same necessity in the case of labourers and other classes who are simply groaning under the weight of impossible rates of interest. There is no reason whatsoever why non-agriculturists in municipal areas should not be relieved against immoral usury. Well, it is quite easy to say—and I quite appreciate the argument—that the distinction made in favour of Calcutta may not be wholly justified. In Calcutta, also, there are industrialists—poor men—who are groaning under the existing rates of interest, but in the case of Calcutta the overwhelming importance of loans for industrial and business affairs makes it impossible for us to lay down just this law for Calcutta. It may be necessary to have a different law in Calcutta. But so far as the *mufassal* is concerned, it is possible to legislate on this general principle. Therefore, Sir, I do not see any reason why a distinction should be made in favour of the municipal areas.

Nawab Khan Bahadur MUSHARRUF HOSAIN: Sir, I rise to oppose both motions, *viz.*, Nos. 13 and 14. In doing so, I may say, that really speaking all the existing company-managed banks have disappeared from the face of Bengal. All the money that is now coming is from traders and merchants. The rates of interest they are now demanding are really so very high that it is high time that some check should be put on their demands. But, I am sorry to say that all my enthusiasm for this Bill practically disappeared when I heard the Hon'ble Sir William Prentice declaring from his seat, who is practically leading the House, that he would accept items Nos. 15 to 18. The effect of the Bill is, practcially, nullified, because I believe and fear that Government will not have the strength of mind to discharge the duty that it is taking upon itself. If Government were to say that it would be able to discharge its duty according to the desires and wishes of the people, I would say that Government was not telling the whole truth. If the item Nos. 15 to 18 are accepted by Government, which means by the House, what is the good of your passing a Bill like this?

If it is at all dropped, I will not be in the least sorry. Of course, it is for the Government to say whether effect will be given to this Bill or not. If an assurance comes from the Hon'ble Sir William Prentice, then, of course, we may proceed with this Bill. Otherwise, I would ask my friends not to think of it at all and to say that the Bill is an absolute nullity.

(The Council was then adjourned for 15 minutes for prayer.)

(After adjournment.)

Rai Bahadur JOGESH CHANDRA SEN: By legislation we can pass any Act we find reasonable and may extend its operation to any area we choose, but this would not stop the evil in any way. I had occasion to discuss this question over before in this House. By this Bill you will not be able to stop that class of money-lenders who would advance only 50 *per cent.* on a document. This is always true in case of "cuptains" where he is out to borrow money for wine, women or gambling. By this Bill you would neither be able to stop the Kabuli money-lenders who do not believe in any form of document but trust only his 5 feet large *lathi* friend! I am afraid the Bill would encourage further corruption. As soon as the Bill is passed, the greedy money-lenders will say: "Look here, the Money-lenders Bill is there, and if you agree to pay my share of interest in full beforehand, without entering the same in the document, then and then only I can advance the money, otherwise please yourself." What can the unfortunate borrower do under such circumstances, he has no other alternative but to accept the term and thereby break the ban of the Act as he would not get any redress even if he comes to the Hon'ble Member for help. This Bill will scare away many *bonâ fide* money-lenders and, I am afraid, time will come when Government will have to be the sole banker of the province and open *khatas* and *hundis* like the *mahajan*.

If the Bill is to be accepted at all, then I would support the amendment moved by my hon'ble friends Rai Bahadur Satyendra Kumar Das and Mr. A. M. Poddar which proposes some improvements.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I oppose both the amendments moved by Rai Bahadur Satyendra Kumar Das and Mr. Ananda Mohan Poddar. I am at least glad to find one fact, and that is that experience has taught the Rai Bahadur to exclude the river-markets of Mirkadim, Bhairab, and Chhatar from his motions, because I find that on the last occasion, when he gave notice of an amendment, he wanted Mirkadim and, probably, some other river markets to be excluded from the operation of the Act. Anyway, I find that, as usual, whenever some relief is sought to be given to agriculturists, debtors, and others, the usual stock arguments loom before us, *viz.*, the laws of supply and demand, etc. I know that much mischief has already been

done by trotting forth this doctrine of supply and demand, and I do not know what more mischief may not yet be done. Suffice it to say, Sir, that there is absolutely no reason to exclude the Bengal municipal areas. Let us take their own district (Dacca); if an agriculturist comes from the rural areas of the Dacca district and takes a loan within the municipal area, do they mean to say that such a case should be excluded? Yet that is the very purpose of their amendments. Simply because a contract is entered into within the municipal area, therefore it should be excluded from the operation of the Act. I do not think it is desirable or possible to divide the indebtedness problem between towns and rural areas. It is quite intelligible that we should make a differentiation between industrial rates and agricultural rates, but if industry is to thrive on the ruins of agriculture, then it is far better that it should not thrive at all.

But who comes first—Industry or agriculture? The agriculturists produce the commodities, the traders come in later, and if we are to look only to the interests of the traders against the interests of agriculturists and others, I do not think that we will be doing our duty properly and well. After all, even a money-grabber has sufficient latitude under the present Bill. We have provided 12½ *per cent.* to 25 *per cent.* for him. Is it seriously suggested that industry and trade should develop at a rate higher than that? Can my friends cite an example from any country where industrial rate is so high as that? Why do you bring in the argument of industry to mislead people? If industry is to develop, it will only do so when the money-lender looks to the interest of the country. We are hearing all sorts of things that foreign capital has come into this country, but why? Because the money-lenders think that industry is not a useful investment for their money even if they can get 12 *per cent.* for the promotion of a genuine industry. I, therefore, strongly oppose this amendment.

The motions of Mr. Ananda Mohan Poddar and Rai Bahadur Satyendra Kumar Das were then put and lost.

Rai Bahadur KESHAB CHANDRA BANERJI: I beg to move that for clause 1 (*3*) the following be substituted, namely:—

"(*3*) This Act or such portions of it as the Local Government may deem fit shall come into force at such time, in such areas and with respect to such classes of money-lenders as the Local Government may by notification in the *Calcutta Gazette* appoint."

The terms of this amendment are practically the same as those contained in an earlier amendment of mine, only with this difference that the question of jurisdiction of the High Court has been left out

in this amendment. The arguments which apply to the former amendment apply also in favour of this amendment, and my friend Babu Satish Chandra Ray Chowdhury very lucidly explained the position, in supporting the first amendment. I want to give the Local Government power to decide as to the time and area and the class of money-lenders who should be brought under the operations of this Act. One reason which I may put forward in support of this amendment is that in the *mufassal* there are many money-lenders, helpless widows, minors and others, who have nothing to fall back upon except the small capital that they have got from their ancestors and which they have invested among their neighbours. In such cases, it will be a great hardship for them to carry on if the provisions contained in this clause are retained, and it is in order to exempt such money-lenders that I have brought forward this amendment for the consideration of the House. I have nothing more to add, but to repeat what I said in moving my first amendment.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, may I move my amendment in a slightly amended form? It is thus: That for clause 1 (*3*) the following be substituted, namely:—

"The Local Government may, by notification in the *Calcutta Gazette*, direct that all or any of the provisions of this Act shall come into force on such date, in such areas and with respect to such class of money-lenders as may be specified in the notification."

This is practically the same as the original motion; all the three points of the original motion are there; power rests with Government to appoint a date, specify the area and mention the class of money-lenders, to whom the provisions of this Bill or any portion of the same will apply.

Mr. PRESIDENT: All right, I admit it as a short notice amendment.

Babu SATISH CHANDRA RAY CHOWDHURY: I need not go into the reasons as exhaustively as I did on the occasion of my first amendment. The reasons are the same, except that in the former case Calcutta was brought under the purview of the Bill, whereas in the present case it is not. I would only repeat that it does not at all injure any class of debtors to leave the power with Government. After all we are making an experiment; we do not know what the result of this Bill will be on the financial position of the respective parties. But there is no harm in moving cautiously, particularly when the whole principle of the Bill is accepted. In that case, its application will only proceed by stages and cautiously. Government may be trusted

very well to determine for itself in which areas the application of the Act is urgently called for, and with respect to what class of money-leaders. If there is a strong case made out by any of the parties for its application to a particular class or exclusion as the case may be, Government knowing the position of both the debtors and the lenders, and in the best interest of all the parties concerned, will apply the Act according to the circumstances and necessities of the case. There is no reason why, while accepting the general principle underlying the Bill, we should not be prepared to recognise the difficulties of rocks and shoals that lie ahead, and why we cannot trust Government really to act in the best interest of the parties concerned, specially seeing that so far as the debtors are concerned, Government must be given credit for not having hampered the introduction of this measure which is calculated to be beneficial to them. So let us all join in leaving the matter in the hands of the Government and I appeal to my friends on the other side of the House to agree to this amendment.

Mr. W. H. THOMPSON: I oppose this amendment in the name of democracy, in the name of the parliamentary system. Let us see what the amendment asks us to do. It asks us to give Government a blank cheque to deal with money-lenders and the money-lending system. We are asked to allow that this Act shall be applicable to the whole of Bengal, but where it should be applied—that is to be decided by Sir William Prentice. We are asked to legislate that everybody is a money-lender who happens not to be in debt, but of those millions that are thus designated as money-lenders, who may be proceeded against under this Act—that is to be decided by Sir William Mussolini, I mean Sir William Prentice. I do not so much object to Government being left to decide the time and place, but the decision as to who is a money-lender and to whom the Money-lenders Act shall apply—that is a matter for legislation and not for executive action. I would be prepared to admit this amendment if the words in the middle were cut out, namely, "and with respect to such classes of money-lenders." I do not so much object to Government deciding the time and place, but I do object to Government deciding to whom this Act shall apply.

Rai Bahadur SATYENDRA KUMAR DAS: I rise in opposition to this amendment, not because I do not want substitution of the clause as indicated by the mover, but on technical grounds as has been pointed out by Mr. Thompson.

It is very vague when one says "such class of money-lenders." I pray—what class of money-lenders? Unless you define them clearly and distinctly I, for one, fail to understand what class of money-lenders are actually in the contemplation of the movers of this motion.

Also I cannot understand what is the criterion of this invidious distinction between one class of money-lender and another. Legislations are not intended to disturb the normal economic laws. You can't do that. In case any such discrimination takes place, of course, the Government may do it with the best of intentions, but I am sure that it will disturb the individual village money-lenders and the co-operative credit societies alike. I strongly object to this unequal, uneconomic and unfair discrimination.

The Hon'ble Sir WILLIAM PRENTICE: I have already stated that Government is prepared to accept this amendment if it appeals to the House. I may say straightaway that in pure theory I entirely agree with Mr. Thompson. But this position has been forced upon Government by the fact that this Bill has been before two Select Committees who have considered it at great length. It was only about three days ago, that we were faced with the problem which is now before us and which has been explained by Babu Satish Chandra Ray Chowdhury. We have not had time to investigate the facts, but we do not want to stop the progress of the Bill in order to make an investigation and the problem then is this "Are you going to accept 1(3) as it stands?" in which case, supposing we find that the facts are as alleged and that the bringing in of this Bill will mean a run upon the rural banks and will be fatal to one part of the economic system then, presumably, it may mean that Government will have to decide whether they will bring this Bill into force at all. (For the Bill cannot come into force until notified.) Or, are you going to realise the fact that there are difficulties, and leave Government to make inquiries and then put the legislation of which the Council approve in principle—that is supposing they pass the Bill—into force in those areas in which they are satisfied that to do so will not be dangerous? That is the practical problem before the Government and it is to meet that practical difficulty that we have decided to support this amendment. If the Council says "no," and the facts are as alleged the position will be that the Bill will remain as it has emerged from the Select Committee, and the question will then be for Government to decide whether they will bring it into force as a whole or postpone it. I may say perfectly plainly that the intention of Government will be to bring the Act into force as widely as possible and as soon as possible. But this is experimental legislation and throughout I have made it perfectly clear—and especially at the time when I spoke in support of the motion for recommitting the Bill to Select Committee—that Government have all along been apprehensive that the results that some people desired might not actually come about when this legislation was brought into force, and it is only in this spirit of caution that we are prepared to accept this amendment. In theory I agree entirely with Mr. Thompson, and if the Council does not want to

give us this power, well, so be it. The Bill will stand as it is, and the decision will lie with Government whether they are to bring it into force as a whole or not, and the difficulties of loan offices in, say, Brahmanbaria or Jamalpur or Tangail may hang up the introduction of the beneficial results that would otherwise accrue to the rest of Bengal. These are the practical difficulties before us and to meet them we are prepared to accept this amendment. If the Council does not want to give us that power, so be it.

Mr. SHANTI SHEKHARESWAR RAY: May I ask, Sir, whether the Government are going to remain neutral on this question?

The Hon'ble Sir WILLIAM PRENTICE: No, Sir, I have already said that Government will support the amendment. On the question being put——

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of order, Sir. I submit, I have a right of reply.

Mr. PRESIDENT: Why didn't you rise at the right moment? I am sorry, I have already put the question.

The Hon'ble Sir WILLIAM PRENTICE: May I suggest, Sir, that as he is the mover of the Bill, he may be given a chance to reply.

Mr. PRESIDENT: I have already put the question and I am sorry I cannot withdraw it.

The motion being put, a division was taken with the following result:—

AYES.

Banerji, Rai Bahadur Keshab Chandra.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Chaudhuri, Dr. Jogendra Chandra.
Das, Rai Bahadur Satyendra Kumar.
Edgley, Mr. H. G. A.
Farquhar, the Hon'ble Nawab K. G. M., Khan Bahadur.
Farrow, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Goenka, Rai Bahadur Badridas.
Guha, Babu Prafulla Kumar.
Guha, Mr. P. N.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Law, Mr. Surendra Nath.
Miller, the Hon'ble Sir Provash Chunder.
Miller, Mr. S. G.
Mitra, Babu Sarat Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nasimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Philpot, Mr. H. C. V.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hanuman Prasad.

Prentice, the Hon'ble Sir William.
Rai Mahasai, Monindra Deb.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Babu Satish Chandra.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Satiswar Singh.
Roy, Mr. Surat Kumar.
Roy, Mr. S. N.

Roy Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sarkar, Rai Sahib Sohoni Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Jogesh Chandra.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Afzal, Nawabzada Khwaja Muhammad.
Armstrong, Mr. W. L.
Ashworth, Mr. G. G.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Mr. R.
Banerjee, Babu Jitendralal.
Barma, Rai Sahib Panchanan.
Basu, Mr. Narendra Kumar.
Birkmyre, Mr. H.
Burn, Mr. N. N.
Chowdhuri, Khan Bahadur Maulvi Allimuzzaman.
Chowdhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Choudhury, Maulvi Nurul Absar.
Main, Mr. G. R.
Ameriji, Maulvi Ser Rahman Khan.
Makim, Maulvi Abdul.
Maqso, Khan Bahadur Maulvi Azizul.
Maque, Kazi Emdadul.
Mosain, Nawab Musharrul, Khan Bahadur.
Mossain, Maulvi Muhammad.
Karim, Maulvi Abdul.

Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Lockhart, Mr. A. R. S.
Miller, Mr. G. G.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Nabendra Sahay.
Nicholl, Mr. C. K.
Quasem, Maulvi Abul.
Rahman, Mr. A. F.
Rahman, Mr. A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Rees, Mr. J. S.
Raut, Babu Hemsi.
Samad, Maulvi Abdus.
Sen, Rai Sahib Akshoy Kumar.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Steven, Mr. J. W. R.
Summer, Mr. G. R.
Thompson, Mr. W. H.
Walker, Mr. W. A. M.

Before the result was announced, Maulvi Tamizuddin Khan rose on a point of order.

Mr. PRESIDENT: Order, order. Before I declare the result I should like to hear Maulvi Tamizuddin Khan on the point of order that he has raised. He may make out his point, if any.

Maulvi TAMIZUDDIN KHAN: Rai Bahadur Satyendra Kumar Das opposed this amendment in his speech, but when the division took place he went to the "aye" lobby. Is that permissible?

Mr. PRESIDENT: I do not know if the Rai Bahadur changed his mind—I know he is very accommodating—after listening to the various speeches that were made after he had spoken (laughter); but the point is, did he, when I put the question, cry out "no"? If he did so, surely he could not go to the "aye" lobby. I depend upon him to give me a straightforward answer.

Rai Bahadur SATYENDRA KUMAR DAS: I did not say "no".

Mr. PRESIDENT: Then it is all right.

The Ayes being 42 and Noes 49, the motion was lost.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I beg to move that in clause I(*3*), in line 1, the words "and in such area" be added after the words "such date."

Sir, the main object of my amendment is that Government cannot take up all the 27 districts for the matter of experiment by extending the operation of this Act in this line——

Dr. NARESH CHANDRA SEN GUPTA: Sir, I submit that this motion is out of order, because sub-section (*2*) says that it extends to the whole of Bengal. Therefore, the amendment would go against that. There is no amendment to sub-section (*2*) to this effect. The amendment before the House seeks to give Government the power to limit the operation of this Act in certain areas. I submit that if sub-section (*2*) stands as it is, then this would be altogether *ultra vires*.

Mr. PRESIDENT: Do I understand you to say that it is more or less proposing a restriction which the Council has already refused to impose? Is that your point?

Dr. NARESH CHANDRA SEN GUPTA: Yes, Sir.

Babu KHETTER MOHAN RAY: Sub-clause (*2*) lays down that it extends to the whole of Bengal, and it has been restricted by a provision that it will not apply to Calcutta. Sub-clause (*3*) may be taken as restricting sub-clause (*2*) because it comes next. Consequently, it will not be in conflict with sub-section (*2*). Sub-clause (*3*) only restricts the operation of sub-clause (*2*). Under the circumstances, I think the amendment is quite right and in order.

Mr. S. M. BOSE: May I add that you have already admitted an amendment which says "in such areas." So, if a point is once admitted about the areas, I submit that this motion is in order.

Mr. PRESIDENT: Your point is that having had allowed the amendments of Rai Bahadur Keshab Chandra Banerji and of Babu Satish Chandra Ray Chowdhury, I should allow this amendment as well? Is that your point?

Mr. S. M. BOSE: Yes, Sir.

Mr. PRESIDENT: But a doubt has crept into my mind as to whether the decision which the House has pronounced with regard to the amendment that was thrown out covers the recommendation of the present amendment. So far as the admissibility of the amendment is concerned, Mr. Bose is right. But the point is whether the recommendation contained in this amendment is not covered by the decision arrived at with regard to the amendment which was thrown out. We have got to find out if the Rai Bahadur wants the Council to do a certain thing which the Council refused to do. If he really means that, I must say that his amendment cannot be entertained, because the recommendation embodied in it is covered by the decision which the House has taken in respect of a previous amendment. But before I decide, I should like to hear any member who is able to throw further light on this question.

Mr. NARENDRA KUMAR BASU: Sir, though I was one of the members who voted against the previous amendment and even though I propose to vote against this amendment if it goes to a division, I submit that this is not exactly covered by the previous amendment, because amendment No. 15 which the House has negatived wanted to introduce the whole thing, viz., at such time, in such areas, and with respect to such classes of money-lenders, etc. It may very well be that there were members who wanted to exclude "with respect to such classes of money-lenders," but to include "in such areas." Therefore, this amendment is not covered by the previous amendment.

Mr. PRESIDENT: Is it your point that the other amendment was decidedly broader and covered a much wider ground?

Mr. NARENDRA KUMAR BASU: Yes, because it was "in such areas and with respect to such classes."

Mr. PRESIDENT: I quite admit that. But can it be denied that a part of that decision affects the recommendation embodied in the present amendment?

Mr. S. M. BOSE: I submit, Sir, that the last amendment dealt with "such time, in such areas, and with respect to such classes of money-lenders," whereas the present amendment is a very narrow one; it only deals with areas. It may be that the members who opposed the last amendment did not want all these three together, but might approve of a restriction about areas.

Mr. PRESIDENT: I cannot say that such an opinion is not based on an inference or that I am able to come to a very clear decision. In any case, it is a doubtful case. Under the circumstances, I think I had better give the mover the benefit of the doubt and allow him to move the amendment.

Rai Bahadur SATYENDRA KUMAR DAS: I beg to move that in clause 1(*3*), in line 1, the words "and in such area" be added after the words "such date."

The main object of my doing so is that certainly the Government cannot take up all the 27 districts of Bengal for the matter of experiment in this line.

Where is the money? The Government has got no money to spend after it. The present agricultural debt of Bengal is not yet very accurately ascertained. It does not stand at the figure of Rs. 100 crores, where it probably stood in 1929. It has increased, but how far it has increased nobody knows.

Rupees 150 to Rs. 200 crores being our agricultural debt, we must first find out the money to finance the agriculturists. Land mortgage banks are very good suggestions, but these banks must possess the money first before they can invite the *raiyats* to come and mortgage their lands and take the desired loan at a very low rate of interest. This is all utopia even up till now.

Sir, all the districts are not equally affected as all the agricultural debts are not of the same kind. So in the fitness of things the Government should start this uncertain experiment first in some specified areas and districts. The Government cannot, to begin with, start this experiment with no sufficient fund at its disposal, in all the 27 districts of Bengal.

Therefore, I propose that the Government should have discretion to select areas and for the matter of that the Government should have this discretionary power.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, I beg to support this amendment. By this clause power is given to Government to fix the date, that there is no provision that the Bill should come into force immediately shows that the member in charge of the Bill and the members of the Select Committee had in view the present economic difficulties of the country. Therefore, if they are wise enough to allow the Government to fix the date when the Bill will come into force,

would they not be wiser still if they would leave it to Government also to specify the area in which the Act should apply? Therefore, I think the House would be well advised to accept this amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I oppose the amendment. I do not think it is necessary for me to say anything except what Mr. Thompson has pointed out that the question is for the Legislature to decide as to whether the problem is of such a character as to require the attention of this House. It will obviously be a great desideratum to the efficacy of the Bill if any power is left with the Government to exclude any area as is contemplated by this Government. Why it is, that my friends, who have never any reliance on Government when dealing with political prisoners or other political matters, want to leave this question of agricultural indebtedness in the hands of Government. The reason for this is obviously clear. Governments of all the countries in the world are naturally afraid of vested interests, and the vested interests of money-lenders might be very strong with Government. That is why the people who have otherwise no confidence in the Government would like to leave powers with Government in dealing with agricultural indebtedness. In a matter like this, Governments of all countries have always been most reluctant to take up any social legislation until and unless things force themselves. I think that power should not be left with Government, as it may not be possible for the debtors to be represented in those Conferences where these matters might be decided. If my friends could devise a machinery by which Government would be enabled to decide as to whether the section would be applicable after hearing both the interests of money-lenders and debtors—and if my friends could find out such a machinery—then the problem could be solved. But I do not think that any Government in the world can do that; it would be leaving too much in the hands of Government and it would land Government in an anomalous position. I, therefore, do not think it safe to leave any such power in the hands of Government. I think the responsibility should be left to the House generally as to whether this Act should be applicable or not. I quite sympathise with the loan offices; but if these loan offices are in a very bad condition, they have to thank themselves for it. Where can you get a parallel to these loan offices? Where can you find a man raising a share capital of few hundreds and seek deposits of few lakhs—and without keeping any reserve fund—goes on distributing every pie of the profit in dividends? If that is the way in which these loan offices are run, they have to thank themselves. They have received enormous dividends in the past and they have to suffer in the long run; but even they will not suffer from this Bill, because it will not affect them. It is only when they go to Courts, then there should be reserve power which should be used in a manner that the money-lenders may not get any extortionate rate of

interest. What that extortionate rate is to be it is for the Legislature to decide. Once you decide what extortionate rates should not be decreed by the Court, I think the purpose of the Bill will be served. In that view of the matter, I feel that the amendments must be opposed.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, if I remember aright, Mr. Thompson was not in favour of the insertion of the words "classes of money-lender"——

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, on a point of order, has my friend, the Rai Bahadur, any right of reply? Has anybody the right to say anything after the member in charge has spoken?

Mr. PRESIDENT: There is, I am afraid, no help for that.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, as I was saying, if I remember aright, Mr. Thompson objected to power being given to Government to decide whether or not this Act should be brought into operation in any particular area, and he objected also to the operation of the Act in respect of a particular class of money-lenders. But, here, the words are "in such area" and the problem differs in different areas. It may be, Sir, that in certain areas banks, companies, loan offices, etc., may charge a particular rates of interest. I said in moving the first amendment that the rate of interest in a praticular place may not be so prohibitive as to require the protection of the law. Therefore, I do not see any reason why the amendment should be opposed.

Mr. NARENDRA KUMAR BASU: Sir, I had no intention of intervening in the debate on this amendment but I am sorry that my friend, the member in charge of the Bill, has unnecessarily dragged in other considerations into the merits of the controversy. Sir, it is very much to be regretted that in opposing this amendment, my friend said that the people who did not see eye to eye with the Government in certain matters were prepared to give more powers to the Government in this matter. It would be a cheap retort in which I will not indulge, but I would only say that it was a sight for the gods to see that my friend, the Khan Bahadur, went into a different lobby against the Government. I will not say that, but I do say that so far as this amendment is concerned, it is, even though not covered by the amendment No. 15, which was lost, in reality the same, and I see no reason why the House should spend time in a debate on this amendment. I oppose the amendment, but not for the reasons put forward by the member-in-charge.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to point out that we are not concerned with what Mr. Thompson has said, but with what is proposed. The provision seeks to bring into operation the Act in different areas on different dates. The effect of that would be that in Dacca the Bill is brought into operation, but it is for instance not brought into operation in Narayanganj. One can easily imagine the great dislocation in business of these places which would be caused by this very fact. It will simply transfer the business of money-lenders from one area to another and from time to time. It will be very different if the Act be brought into operation all over the province so that the money-lender would know that he could not charge extortionate rates of interest by migrating elsewhere. That is precisely the reason why it is necessary that if this Bill be brought into force, it ought to be brought into force everywhere.

Sir, much has been said about local peculiarities; for example, the Hon'ble Sir William Prentice referred to the statements made by Mr. Ray Chowdhury with regard to the Jamalpur and Tangail loan offices. Sir, both Jamalpur and Tangail are my constituencies. With regard to Jamalpur, I know that the loan office there is in difficulties. With regard to the Tangail loan office, I know that it is in less difficulty, but how far these difficulties are going to be increased by the passing of this Bill I do not know. I have had to go into the affairs of the Jamalpur and the Singjani offices and I can say that the difficulty they are now suffering from is exactly due to the fact that there is a run on the bank which they are not able to meet. They are unable to pay their creditors; they have applied to the High Court for framing a scheme under section 153 of the Indian Companies Act which provides for an arrangement being made between the creditors for meeting their liabilities. That is precisely the course which would be open to any loan office which finds itself in difficulties. Any corporate body which finds itself in difficulties with regard to the payment of the obligations already incurred by it can apply that remedy with the consent of the creditors; but this Bill will not increase the burden either on the Jamalpur loan office or the Singjani loan office. These loan offices will not in any way be affected by this Bill. They are unable to realise even their principal. The question of principal or interest is wholly immaterial; they can only survive by an arrangement with the creditors and they have applied for such an arrangement. But to drag the cases of these loan offices as a red-herring across the path of the debate is quite beside the point. Their position will not in any way be worsened by this Bill.

Nawab Khan Bahadur MUSHARRUF HOSAIN: Sir, sometimes repetition is reckoned as a virtue and sometimes not. I think that repetition in the present case is a virtue. My friend, Dr. Sen Gupta,

has given us the experience of one and one district alone. I will give my experience of several districts. I fully agree with Dr. Sen Gupta that the passing of this Bill will in no way land us into difficulty. There are already many difficulties around us which Government are able to surmount, and I do not believe that the passing of this Bill will aggravate the situation. So far as my knowledge of banking affairs goes, I do not think that if the Bill were enacted into law, it would at all stand in the way of proper management of loan offices, banks, etc. In the case of banks which are really managed by joint stock companies, the rate of interest is much less than 20 *per cent. per annum*—a rate which we call excessive. Ordinarily, in my district of Jalpaiguri the joint stock companies lend money at a rate varying from 8 to 10 *per cent.* —10 *per cent.* being the highest rate that I have known of in the case of a few banks. Although I personally am not connected with this loan business, yet I can vouchsafe for these facts, because I have heard these things from people whom I know very well and who do banking business. So, I submit that the joint stock companies will not be affected by this measure; the only people who will be affected are those who demand extortionate rates of interest. For example, in Jalpaiguri, such people are getting 36 *per cent.* interest—and even that rate is considered the minimum. Practically, all the banks have closed their doors and private people with capital have stepped in and they are reaping a good—and perhaps golden—harvest out of the abnormal economic conditions: in fact, they are fishing in troubled waters. I think, Sir, that matters have gone so far that some check should be put upon such form of usury. What, 36 *per cent.* must not be considered to be an extortionate rate!

Sir, with my own experience of various districts coupled with that of Jamalpur, to which Dr. Sen Gupta has referred, I can unhesitatingly say that really speaking the joint stock companies will not suffer in any way by the passing of this Bill.

Babu KHETTER MOHAN RAY: Sir, I am sorry I cannot agree with the arguments put forward by Dr. Sen Gupta. I myself am concerned with five banks in Comilla. In Comilla and Noakhali there are near about 50 banks, and I may add that I am intimately connected with some of these banks: I am a director of one and a managing director of another. And from my experience I can say without any fear of contradiction that the Comilla Bank will find it extremely difficult to manage its affairs properly if the Bill is passed. I know also something about the conditions prevailing in the Jalpaiguri and other districts. In the Jalpaiguri district the bankers do not lend money to the cultivators, etc.; the bulk of the money is lent out to businessmen or tea-gardens or others interested in the tea industry.

Now, if the Bill is passed into law, the tea industry will have the greatest benefit from it, or it will then be able to borrow money at rates of interest ranging from 9 to 12 *per cent.* I submit, Sir, that it is to the credit of the Comilla Bank that it is running its affairs tolerably well, though it sometimes finds itself in difficulties.

Now, if it insists on payment of interest, after, say 3 months, it can manage to survive somehow or other, but if this Bill, with all its objectionable provisions, be passed into law, it will be hard hit. There are also other matters, *e.g.*, people over there have some customs and usages among themselves for regulating the payment of rent. If this Bill is brought into force at once or within 6 or 12 months before these banks and other associations are able to adjust their position and business in conformity with the provisions thereof, then I think these banks in Comilla as well as similar other banks all over the province will come to grief. Certainly, they will not be able to adjust themselves at this time of depression to the provisions of this law, and with these remarks I support the amendment.

We have given power to Government to decide when the Act will come into force, and I want to give Government another power, namely, power to decide the area in which it will be applicable. I do not think it will in any way detract from the sanctity of this legislation if this were done. On the other hand, I think it is wise, expedient and practical to empower Government to decide when and where it should appear first. Government, moreover, have ample means at its disposal to ascertain local conditions, so that they will easily be able to know when a particular area should be brought under the operations of this Act; this will also entail less hardship on the people concerned in the money-lending business. Therefore, I support the motion of my friend Rai Bahadur Satyendra Kumar Das.

Maulvi TAMIZUDDIN KHAN: I shall only say a few words. All the members who have supported this amendment have done so in the interests of banking corporations that are in existence in the country now. I do not know how the passing of this amendment will be at all to the benefit of these banking corporations. Again, a great deal of practical difficulty has been brought in by the fact that a more comprehensive amendment, namely, No. 15, has already been negatived. I do not also know how the opertaion of this measure could be excluded from a particular area in the interest of these companies, because if a certain area, say Jamalpur for example, were excluded from the operation of this Act, not only will the companies in that area but also all private money-lenders of that locality will be excluded; so that in giving help to these banks, you will be practically giving a premium

to the private money-lenders of particular localities in preference to others. Therefore, in its present form, the amendment cannot be accepted.

Rai Bahadur Satyendra Kumar Das's motion was then put and lost.

The motion that clause 1 stand part of the Bill was then put and agreed to.

Clause 2.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to move that for clause 2(*1*), the following be substituted, namely:—

"(*1*) 'money-lender' means every person (except bodies corporate empowered to lend money, banks, provident fund societies and insurance companies) whose business is that of money-lending or who advertises or announces himself or holds himself out as carrying on that business."

Sir, by this amendment I propose to give a definition of the word "money-lender." The Bill gives no real definition of "money-lender" and as it stands it proposes to cover all people whether they are money-lenders by profession, by business, or by chance. As I said on a previous occasion, the idea of the author of the Bill was to confine the drastic provisions of the Bill to persons who carried on the business of money-lending as will be found in sections 5 and 6 of the original Bill. This Bill is a copy of the English Money-lenders Act and in that Act a definition of the word "money-lenders" has been given, and it is made to cover only those who carry on the business of money-lending as a profession, and certainly the drastic provisions of this Bill ought to be applicable only to those whose business is money-lending, but not to those who are money-lenders only by chance. For instance, a friend lends money to another friend, a neighbour lends money to another neighbour with great difficulty to himself just to help him out of a certain financial crisis. It stands to reason that the Act should not apply to him in such cases; for he does not abuse his position or works ruin of debtors as a class. As a matter of fact, we find that in certain Notes of Dissent appended to the Bill the question was raised that certain clauses of the Bill if passed would operate very harshly on a

certain class of persons, for instance, certain widows who have nobody to support them but who have invested their all with a particular person or persons at a particular rate of interest, and on which their livelihood depends. I maintain that these classes of people like widows, minors, etc., who are not professional should not come within the purview of the Act. As I understand, the main principle of the Bill was to attack the Kabuli money-lenders who have worked the ruin of people in certain areas and the drastic provisions of the Bill were intended to apply to the professional money-lenders. I accordingly think that there should be a real and sensible definition of the word "money-lender" and from that definition persons who are not professional money-lenders should be excluded. As the author of the Bill has simply copied it from the English Money-lenders Act, I think it would be proper if his Bill also contained a proper definition of the money-lender similar to that contained in the English Act. He would be showing real wisdom by accepting the safeguards provided in the English Act and confining the definition of the money-lender to the professional and business classes only.

My arguments with regard to this apply with double force to the provident fund societies, etc., and I, therefore, hope that my amendment will be accepted by the House.

Mr. W. H. THOMPSON: I have been discussing the amendment which stands in my name with the member in charge of the Bill and with your permission, Sir, I would like to make a slight change in the amendment to render it capable of acceptance by him. May I have your permission, Sir?

Mr. PRESIDENT: Yes. The alterations have already been shown to me. I have no objection to the change being made.

Mr. W. H. THOMPSON: My amendment runs thus:—

For clause 2 (*1*) the following be substituted namely:—

" 'Money-lender' means any person who grants a loan of money but does not include (*a*) any *bonâ fide* banking corporation or (*b*) any society registered under any law for the time being in force regarding insurance, or (*c*) any company registered under the Indian Companies Act whose primary object is not lending of money and whose rates of interest do not exceed the maximum percentage stipulated hereinafter in this Act."

I move the amendment I have just read in order to make sure that this Bill will not interfere with the regular business of a civilised community. The word "money-lender" in the English language means something not quite the same as the definition which stands in the Bill one who lends money. There is something definitely derogatory in addressing a man as a money-lender, and if I happen to hold shares in a bank, my friend the Khan Bahadur would hurl insults on my head by calling me a money-lender through his Bill. I feel sure that it was not his intention to throw such insults on me nor is it his intention in any way to interfere with real banking and similar businesses. Such businesses are specifically excluded from the definition of a money-lender in the corresponding English Act, Act LXI-LXII of Queen Victoria, 1900. The mover of the last amendment has, I think, read that Act; certainly my friend Mr. J. N. Basu, whose amendment comes later, has read that Act also. The English Act definitely excludes such corporate bodies as are defined in the amendment which stands in Mr. Basu's name. The English Act also requires that to be a money-lender a man must advertise himself as such in the manner of the amendment that has just been moved. Now, Sir, in India, on the one hand it might be difficult to prove that a money-lender had advertised himself as a money-lender, and on the other it might be possible also for a money-lender to get away with it by registering himself as a company. In the amendment which I have just placed before you, Sir, I have tried to adapt the English limitation of the money-lender definition to suit Indian conditions, and to limit the definition of money-lender to exclude any corporate body that keeps its rate of interest down to a reasonable rate. Now, Sir, a money-lender in the *mufassal* who turns himself into a loan office or a company, so long as he keeps the rate of interest down, is not a person to be discouraged. The countryside must have the means of borrowing money, and if a loan office lends money at a reasonable rate of interest, it ought to be encouraged. The *mahajan* who pitches his interests too high should by all means be put down.

Now, you may say "What is this fuss about—why should our banks be worried by this Act?" There is one amendment, No. 113, on the list of amendments here. It reads as follows:—

"No money-lender shall recover by suit any interest in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest."

Now, Sir, suppose that amendment is carried, where will the banks be? And even if it is not carried, who is to say, Sir, that some such amendment will not be added to the law by an Amending Act. Then, Sir, may I ask you to turn to clause (*5*) of the Bill as it stands? Clause (*5*) provides that "no money-lender shall recover by suit interest of any kind at a rate exceeding 10 *per cent. per annum* or with rests

at intervals of less than six months in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest." Now, Sir, if that clause stands, then no bank can make up its overdraft accounts quarterly or monthly, and the clause would render illegal those advances for which present custom in the jute trade, I understand, uses monthly rests. Now, Sir, in these two examples the regular conduct of business would be upset by this Act, and I submit that it must not be permitted that the legitimate business of a civilised community shall be upset in order to deal with illegitimate proceedings and business of the uncivilised *mufassal*. The hon'ble member in charge of the Bill is willing to accept the amendment as I have put it forward. His acceptance of it and its acceptance by the House are conditional on the support by the European group the Bill as a whole.

Mr. P. BANERJI: Sir, I am not convinced by the argument put forward by Mr. Thompson in support of his motion. He says that banking corporations in the uncivilised *mufassal* will perhaps be harmed. I may tell Mr. Thompson that the banking corporations charge lower rates of interest. We are fixing in this Bill 10 *per cent.* for six months' rest but no civilised bank, either at Narayanganj or at any other place, ever charge more than 9 *per cent.* and to-day the bank rate is too low, while the loan offices have been charging from time immemorial a very high rate of interest. This Bill has been introduced simply to put a check on those unscrupulous loan offices in the *mufassal*, one of which, as has been stated by the mover of the Bill, realised Rs. 18,000 on a loan of Rs. 1,000 only. Now if the limit is fixed at 10 *per cent.* or 12½ *per cent.* against securities, or 25 *per cent.* without security, I find no reason why such a motion should at all be tabled. Because what does it mean? As an Englishman I would ask him to read his own language. It does not in any way improve the position or affect any banking interest in the *mufassal*. In fact, these institutions are charging much lower rates of interest—at least lower than 10 *per cent.* which is the maximum fixed by the Bill for six months' rest. That being the case, even six months' rest will not in any way jeopardise the existence of the banks in question.

Babu KHETTER MOHAN RAY: Sir, I oppose the amendment moved by Mr. Thompson, because he has used the term "*bonâ fide* banking corporation." Now, Sir, who will determine whether a corporation is *bonâ fide* or not. Unless the matter goes to the Court, nobody will be able to decide whether a particular banking corporation is a *bonâ fide* institution or not, or whether it is registered under the

Indian Companies Act. This word is rather vague and, therefore, I say that this amendment will be more mischievous than helpful, if there is no provision excluding banks in general.

Then, Sir, there is another qualification in his amendment, *viz.*, a "banking corporation.....not having for its primary object the lending of money." We know that in the *mufassal* there are mixed banks, which sometimes deal in money-lending as well as banking. It is very difficult to determine under what category these banks and registered companies will fall. Therefore, I oppose the amendment of Mr. Thompson and support that of Babu Satish Chandra Ray Chowdhury.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, in opposing the amendment of Mr. Thompson, I have only one word to say. It is too late in the day to use the furcoat arguments in India. India is certainly not England. But whenever there is any experiment to be made on the English model it is best to follow the model *in toto*. Mr. Thompson has used two arguments: he cannot accept my definition of "money-lender" because India is not England, and therefore it should not be made applicable to the whole of India, and secondly it would hurt the sentiment of the shareholders of the banks because they would not like to be called "money-lenders." If it is a hateful name, how do you make it applicable to a man who has by chance helped a man in need. The English Money-lenders Act in its definition has rightly excluded not only banks and insurance companies, but also any person who casually advances money to another to help him in a difficulty. Therefore, it is only on the ground that India is not England, that is the furcoat argument, that my amendment can be thrown out and his accepted and on no other.

Mr. PRESIDENT: Order, order; you should not speak on your motion again. You must confine your remarks to Mr. Thompson's motion.

Babu SATISH CHANDRA RAY CHOWDHURY: I, therefore, oppose the amendment. To accept his amendment would be accepting a position that prevails in England, although we cannot have the safeguards of the English law. The conditions in India are such that we should be more cautious in applying some of the drastic provisions of the English law.

Mr. S. M. BOSE: May I move the motion standing in the name of Mr. J. N. Basu as my own?

Mr. PRESIDENT: Yes.

MR. S. M. BOSE: I beg to move that in clause 2(*1*) the word "and" at the end shall be omitted and to that clause the following shall be added, namely:—

'but does not include—

(*a*) any society governed by the Provident Funds Act, 1897, or any law for the time being in force dealing with provident funds;

(*b*) any society registered under any law for the time being in force regarding insurance;

(*c*) any body incorporated or empowered to lend money under any Special Act of Parliament or of any of the legislatures in India or under any law for the time being in force relating to the constitution and working of Joint Stock Companies; and

(*d*) any body constituted under the provisions of law for the time being in force relating to co-operative societies; and"

Mr. Thompson's amended amendment No. 23, I believe, excludes provident funds and co-operative societies and only includes insurance companies. I submit that both provident funds and co-operative societies ought to be included within Mr. Thompson's amendment and excluded from the operation of this Bill. It may happen that an insured person takes money on loan from the insurance company, or a member of the co-operative society takes money on loan from that society, or a provident fund subscriber takes a loan from the fund. Such loans should, I think, be excluded from the operation of this Act, because these societies are ordinarily outside the category of ordinary money-lenders. These persons are members of the group which lends money to each other. I, therefore, submit that as in my amendment provident funds and co-operative societies should be excluded from the operation of this Bill.

MUNINDRA DEB RAI MAHASAI: I beg to move that to clause 2, the following proviso be added, namely:—

"Provided that corporate bodies which lend money shall be excluded."

The object of my amendment is to exclude corporate bodies such as co-operative societies or societies governed by the Provident Funds Act, 1897, or societies empowered to lend money under any law relating to the constitution and working of joint stock companies from the operations of this Act. There must be a line of demarcation between private individuals who have got money-lending business and those

corporate bodies which are constituted under the law. These bodies cannot go beyond the hard-and-fast rules incorporated in their constitution which is not the case with private individuals who can do or undo things at their sweet will and pleasure. Unless these provisions are embodied in the law, complications may arise in the future. The object of the amendment is to safeguard future complications. The matter should not be left to the interpretations which might be put on it by legal luminaries in the absence of such a provision.

Kazi EMDADUL HOQUE: Sir, I beg to move that to clause 2(*1*) the words "includes registered banks or joint stock companies, and" be added.

The main object of the Bengal Money-lenders Bill is to give relief to the debtors most of whom are illiterate cultivators, and I hope that the provisions of the Bill when passed into law will be thoroughly understood by the debtors for whom it is intended. Whatever the meaning of the word "person" may be, to a person who is not conversant with the General Clauses Act, the expression money-lender may mean to exclude registered banks and joint stock companies and may be restricted to individual money-lenders. Now, as we want that no room for doubt should be left in the minds of the debtors as regards the provisions of the Bill, I think the addition of these words are quite justified. In the absence of these words, there will be every room for the unscrupulous money-lenders to impose upon the illiterate debtors. But if these words be added to the definition, then of course there would be no room for the money-lenders to deceive the debtors. So, I think in order to make the meaning clear these words should be added to clause (*2*).

Dr. NARESH CHANDRA SEN GUPTA: Sir, I am afraid we have been talking mostly about imaginary things in connection with these amendments. Mr. Thompson's amendment was introduced as a *ex-abandonti cantela*. At any rate it is a motion which does not hurt anybody. If the companies lend money at rates of interest which do not exceed the maximum percentage stipulated in this Act, there is no sense in putting them outside the scope of this Act, because the Bill does not provide for anything besides limiting the rate of interest. Mr. Thompson had to rely upon the hypothetical possibility of something happening of which there was no chance. Mr. S. M. Bose referred to the disaster that would follow if the provident funds and co-operative societies were included within the Money-lenders Act. But is there any society which lends money at rates exceeding those laid down in this Bill? I am sure there is none. Mr. Ray Chowdhury's amendment goes too far. I should have very much appreciated his

furcoat argument if he had used it in a better cause. As it is, there is a real difference between conditions in India and those in England, and also between the English Money-lenders Act and the Bill before the House. The definition of the English Money-lenders Act which provides for a number of things cannot be adopted. The other amendments which have been moved are more or less meaningless, considering the fact that the Bill is of a very limited application. My friend, Khan Bahadur Azizul Haque, I understand, is prepared to accept the amendment of Mr. Thompson, as that is the amendment which saves everybody and hurts nobody. I think that is an amendment which ought to be accepted by the House.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, may I suggest that (it being 6-50 p.m. of the clock) the matter be taken up to-morrow because it is too late to finish the discussion on this question to-night.

Mr. PRESIDENT: That means that I shall have to adjourn the House now. Is that your wish? In that case we might adjourn the House until 3 p.m. to-morrow.

Adjournment.

The Council was then adjourned till 3 p.m. on Wednesday, the 23rd August, 1933, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 23rd August, 1933, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHANATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 90 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Re-assessment of cesses in Chittagong.

*72. **Haji BADI AHMED CHOWDHURY:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that re-assessment of cesses has been started in Chittagong in 1929 and that it is still continuing?

(*b*) Were not cesses assessed at the beginning on the basis of yield of an acre of paddy land estimated at Rs. 10?

(*c*) What steps, if any, have been taken by the Government in view of the motion carried in the Budget session on the 15th March, 1932, regarding proper cess assessment?

(*d*) What is the estimated value of the paddy land per acre for the purposes of cess assessment after the 15th March, 1932, when the said motion was carried?

(*e*) What was the total assets of cesses of Cox's Bazar and Kutubdia *khas mahals* before the revaluation of cesses and what is the total assets of cesses now in consequence of revaluation of cesses?

(*f*) Is the Hon'ble Member aware of a feeling that exists that the cess assessment has been very excessive having regard to the present economical depression in the country?

(*g*) Are the Government considering the desirability of taking steps for the re-assessment of cesses for the protection of the talukdars and jotedars and the tenants under them?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) and (*b*) Yes.

(*c*) Orders were issued that section 24 of the Cess Act should be sparingly used in the case of raiyats who are *bona fide* cultivators, even if they have sublet permanently not inconsiderable portions of the land, and that raiyats were to be treated as cess tenure-holders only when the area of the holding was over 5 acres, the rent was less than Rs. 4 per acre and more than 20 per cent. had been sublet. Khas lands of zamindars and tenure-holders were ordered to be valued on the basis of the average rates paid by cash-paying occupancy-raiyats.

(*d*) Rupees 10, but it has subsequently been reduced to Rs. 8 in estates where more than half the work remained to be done.

(*e*) A statement is laid on the table.

(*f*) Government are aware that some persons hold this opinion.

(*g*) No, but the rate of cess has been reduced for the year 1933-34.

Statement referred to in the reply to starred question No. 72 (c).

Tauzi No.	Old valuation.			Old cess.			New valuation.			New cess.		
	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.
24613 (Cox's Bazar) ..	4,97,366	4	9	17,945	4	3	7,72,577	15	0	37,362	13	6
24795 (Kutubdia) ..	1,80,469	14	0	6,892	11	9	3,16,456	6	0	15,391	14	3

Khan Bahadur MUHAMMAD ABDUL MOMIN: With reference to (*d*), will this reduction also affect all these assessments done before the issue of this order?

The Hon'ble Sir PROVASH CHUNDER MITTER: Very likely so, for otherwise it would involve re-assessment of those cases and more expense. But I should like to have notice of this question.

Khan Bahadur MUHAMMAD ABDUL MOMIN: With reference to (*g*), is it intended that the reduced rates of assessment will continue after the year 1934, or is it only for one year?

The Hon'ble Sir PROVASH CHUNDER MITTER: The present order is for this year. The questioner will probably remember that it can only be done after the District Board has passed its resolution.

Maulvi SYED MAJID BAKSH: It it not a fact that assessment in 1932 varies considerably from the assessment of 1933-34?

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not quite follow the question.

Maulvi SYED MAJID BAKSH: So far as 1933-34 is concerned, there was some principle of assessment and in answer to (*g*) the Hon'ble Member says that the rate of assessment has been reduced. Does he mean that the assessment has varied?

The Hon'ble Sir PROVASH CHUNDER MITTER: Still I cannot follow the question.

Sitakund overhanging bridge on the Assam-Bengal Railway.

***73. Rai Bahadur KAMINI KUMAR DAS:** (*a*) Is the Hon'ble Member in charge of the Public Works (Railways) Department aware—

(*i*) that there is an overhanging bridge in the Sitakund, Assam-Bengal Railway Station; and

(*ii*) that the said bridge is not wide enough for the passage of pilgrims during the Shiva Chaturdashi and other festivals?

(*b*) Are the Government considering the desirability of taking necessary steps for widening the bridge before the next Shivaratri Mela?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*) Yes, the overbridge is at the end of the Station yard alongside the level-crossing where the road crosses the railway.

(*ii*) The overbridge was erected as an alternative route for normal pedestrian traffic when the adjacent level-crossing is shut; it is not of a nature to carry heavy pilgrim traffic.

(*b*) No; the level-crossing is only shut for short periods at a time.

Rai Bahadur SATYENDRA KUMAR DAS: With reference to (*b*), will the Hon'ble Member specify the "short periods"?

The Hon'ble Mr. J. A. WOODHEAD: I must ask for notice. (Laughter.)

Bengal prisoners in the Andamans.

***74. Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state—

(*i*) how many prisoners convicted of political offences from Bengal are now detained in the Andamans;

(*ii*) what is the daily menu of diet that those Bengal prisoners generally receive there;

(*iii*) whether Bengali diet is usually given to them; and

(*iv*) what is the daily diet expenditure for each such prisoner?

(*b*) Will the Hon'ble Member be pleased to state how many letters each such prisoner is entitled to write to his relatives in a month?

(*c*) Is it a fact that the Andamans is considered to be a highly malarious and unhealthy place?

(*d*) Have the Government any information as to the death-rate of the populace as well as of the convicts in the Andamans?

(*e*) If the answer to question (*c*) is in the affirmative, will the Hon'ble Member be pleased to state the reason for detaining Bengal prisoners there?

(*f*) Is it a fact that the Andamans settlement is intended for the detention of prisoners convicted of transportation for life?

(*g*) Will the Hon'ble Member be pleased to state the reason for detaining Bengal prisoners who are convicted for shorter terms?

(*h*) Will the Hon'ble Member be pleased to state what clothing is supplied to Bengal prisoners in one year?

(*i*) Will the Hon'ble Member be pleased to state the medical arrangements for Bengali prisoners in the Andamans and how many medical officers are there to attend them?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) Ninety-two prisoners of the *bhadralok* class convicted of various offences under the Penal Code and the Arms Act are now detained in the Andamans.

(*ii*) to (*iv*) These matters are regulated by rules made by the Government of India and I am not in a position to supply any information regarding them.

(*b*) The Hon'ble Member is referred to the reply I gave on the 28th February last to part (*f*) of starred question 20 asked by Babu Satish Chandra Ray Chowdhury.

(*c*) The prevalence of malaria in the Andamans varies greatly in different areas. The islands as a whole may be regarded as malarious, but Aberdeen where the cellular jail is situated is fairly healthy.

(*d*) The latest Administration Report shows that the death-rate among convicts in 1931 was 32·74 per mille. The death-rate among the ordinary population is not known.

(*e*) Does not arise.

(*f*) and (*g*) The Andamans were used for prisoners sentenced to transportation for life or for shorter periods, but it has also been used as a place for deportation of specially dangerous prisoners and those whose removal from Indian jails is considered to be necessary in the public interest.

(*h*) and (*i*) These matters are regulated by rules made by the Government of India and I am not in a position to make any statement about them.

Babu KISHORI MOHAN CHAUDHURI: Are the Andamans prisoners in charge of the Government of Bengal?

The Hon'ble Sir PROVASH CHUNDER MITTER: They are outside the province and cannot be in charge of the Government of Bengal.

Maulvi TAMIZUDDIN KHAN: With reference to (*d*), what is the population of convicts per mille?

The Hon'ble Sir PROVASH CHUNDER MITTER: I must ask for notice.

Mr. NARENDRA KUMAR BASU: Is it not a fact that transportation of prisoners to the Andamans was stopped a short time ago?

The Hon'ble Sir PROVASH CHUNDER MITTER: In 1926 it was stopped as a Penal Settlement; later on it was resumed.

Mr. NARENDRA KUMAR BASU: Is it not a fact that it was stopped mainly on account of reasons of health.

The Hon'ble Sir PROVASH CHUNDER MITTER: That is a matter for the Government of India, and I would like to have notice. But as I have already pointed out in my reply, the prisoners from this province are in Aberdeen area where health is not bad.

Mr. NARENDRA KUMAR BASU: Do the prisoners confined in Aberdeen area possess any money?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice as this Government is not in charge of the jails there.

Dr. NARESH CHANDRA SEN GUPTA: With reference to (*f*) and (*g*), may I inquire on what previous occasions the Andamans were used for deportation of specially dangerous prisoners?

The Hon'ble Sir PROVASH CHUNDER MITTER: That is a matter for the Government of India, and I want notice. Even then I am not sure whether I shall be able to reply.

Babu SATISH CHANDRA RAY CHOWDHURY: With reference to (*f*) and (*g*), has the policy of deporting dangerous prisoners to the Andamans been introduced recently, or has it been followed all along?

The Hon'ble Sir PROVASH CHUNDER MITTER: From time to time; but as I have said it is a matter for the Government of India.

Mr. NARENDRA KUMAR BASU: Have any prisoners from Bengal ever been transferred to the Andamans as specially dangerous prisoners?

The Hon'ble Sir PROVASH CHUNDER MITTER: I must have notice, but my impression is that it must have been so.

Mr. SHANTI SHEKHARESWAR RAY: How many of these 92 prisoners who have been removed to the Andamans are dangerous prisoners, and how many of them have been so removed in the public interest?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have already answered that question.

Babu HEM CHANDRA ROY CHOUDHURI: Did any of these convicts commit any offence of a dangerous character when in prison?

The Hon'ble Sir PROVASH CHUNDER MITTER: I am afraid I do not understand the question.

Mr. SHANTI SHEKHARESWAR RAY: Sir, my question remains unanswered.

Mr. PRESIDENT: What is your question?

Mr. SHANTI SHEKHARESWAR RAY: I asked how many of these 92 prisoners were of the dangerous type and how many had been removed in the public interest? I asked this question with reference to (*f*) and (*g*), but I was told in reply that the answer had already been given.

The Hon'ble Sir PROVASH CHUNDER MITTER: I should like to draw the hon'ble member's attention to answer (*a*) and (*i*).

Maulvi SYED MAJID BAKSH: Can a prisoner be transferred to the Andamans unless he is under a sentence of transportation?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes, that answer was given many times previously.

Babu SATISH CHANDRA RAY CHOWDHURY: Have any *bhadralok* prisoners been sent there previously, or have the Andamans been specially chosen for *bhadralok* prisoners only?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice of that.

Mr. SHANTI SHEKHARESWAR RAY: Sir, on a point of order. I submit that my question still remains unanswered. I was referred to answer (*a*) (*i*), but there is nothing here to show how many of the prisoners are dangerous prisoners and how many have been removed in the public interest. Will the Hon'ble Member kindly elucidate his answer?

The Hon'ble Sir PROVASH CHUNDER MITTER: I submit that I have already answered the question. Speaking from memory, I may say that all prisoners who are of dangerous type, such as bombwallas, terrorists, etc. The type is dangerous, for example, some of the prisoners of this type in Chittagong Jail collected arms and bombs and pistols inside the jail, as also some escaped from other jails —prisoners of such dangerous type have been transferred to the Andamans.

Faridpur Railway Station.

*75. **Rai Sahib AKSHOY KUMAR SEN:** Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state—

(*a*) whether the railway authorities are considering the desirability of constructing a well-equipped railway station at Faridpur; and

(*b*) if so, whether any money will be provided for the purpose in the next year's budget?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) Yes.

(*b*) This Government have no information whether any provision for this purpose will be made by the Government of India in their budget next year.

Rai Bahadur KESHAB CHANDRA BANERJI: How long has the scheme for the reconstruction of the railway station been before the Government?

The Hon'ble Mr. J. A. WOODHEAD: I could not say definitely. Certainly for some time.

Abduction of women.

*76. **Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state—

(*i*) showing separately, district by district, for the years 1930-31, 1931-32, the number of cases of abduction of women in Bengal; and

(*ii*) how many of them ended in convictions?

(*b*) What measures do Government propose adopting to put a stop to such occurrences?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*), (*ii*) Figures for financial years are not available.

(*b*) The member is referred to the reply given to starred question No. 53 in this session of the Council.

Rai Bahadur KESHAB CHANDRA BANERJI: Can the Hon'ble Member give us the figures for the calendar years?

The Hon'ble Sir WILLIAM PRENTICE: I gave them yesterday in answer to a similar question.

Mr. NARENDRA KUMAR BASU: Are the Government considering the advisability of including whipping as an additional punishment in these cases?

The Hon'ble Sir WILLIAM PRENTICE: So far as I know, that proposal has not come up.

Babu SATISH CHANDRA RAY CHOWDHURY: Has the attention of the Hon'ble Member been drawn to the fact that in America capital punishment has been awarded for such cases?

The Hon'ble Mr. W. D. R. PRENTICE: Yes.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member take into consideration my suggestion that whipping should be awarded as an additional punishment to such cases?

The Hon'ble Sir WILLIAM PRENTICE: Yes, I shall examine this question.

Civil disobedience convicts at Midnapore.

*77. **Mr. R. MAITI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that one Balai Das of Midnapore, and two others of Bankura convicted in connection with the civil disobedience movement while being brought to the Midnapore Central Jail uttered *Bande Mataram* at the Midnapore Railway Station and were flogged then and there in the presence of many people at about 3-30 p.m. in June, 1933, under the orders of Mr. Drummond, the then Civil Surgeon of Midnapore, who happened to be present there by chance at that time?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state under what authority Mr. Drummond could pass the orders for flogging?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) and (*b*) The facts are that three civil disobedience convicts and a number of long-term ordinary convicts had disembarked from the train at Midnapore. The three civil disobedience convicts created a demonstration, shouted *Bande Mataram*, and obstructed the barrier in presence of a large crowd. The two armed orderlies of Captain Drummond went to the assistance of the escort to stop the demonstration and get the convicts through the barrier. The convicts were not flogged nor did Captain Drummond give any orders to that effect. A minimum of force was used and no one was injured.

Dr. AMULYA RATAN GHOSE: Were the orderlies acting under orders, and who gave them the order?

The Hon'ble Sir PROVASH CHUNDER MITTER: Presumably, they went to the assistance of the guards, and they acted quite properly and correctly. These men were creating a disturbance and making a demonstration and obstructing the barrier. Captain Drummond, a responsible officer, was present on the spot, and if he had ordered his orderlies to go to the assistance of the guards, he acted quite correctly and properly.

Dr. NARESH CHANDRA SEN GUPTA: What was the minimum force used? Was it a light *lathi* charge, pushing or giving blows?

The Hon'ble Sir PROVASH CHUNDER MITTER: In spite of the irony of the question, I may say that I have already stated that there was no flogging, and from the answer it will also be seen that there could not be any occasion for a *lathi* charge.

Dr. AMULYA RATAN GHOSE: Was the simple shouting of *Bande Mataram* making a demonstration?

The Hon'ble Sir PROVASH CHUNDER MITTER: Any shouting by prisoners is a demonstration—not specially the shouting of *Bande Mataram*. In the answer it will be found how the prisoners misbehaved.

Mr. SHANTI SHEKHARESWAR RAY: Has the Hon'ble Member ascertained from Captain Drummond what orders he gave to his orderlies?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have nothing further to add.

Religious instructions to prisoners in jails.

***78. Maulvi HASSAN ALI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that there are arrangements for giving religious instructions to the prisoners in jails of Bengal?

(*b*) Is it a fact that in every district jail Mussalman prisoners are allowed to perform the Jumma prayers under the leadership of Maulvis appointed by Government, from outside?

(*c*) Is it a fact that in all jails of Bengal, such Jumma prayers are held within the jail compound under the open sky during rains and in the sun?

(*d*) Are the Government considering the desirability of taking steps to build a prayer house in every jail of Bengal?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) and (*b*) Yes.

(*c*) They are held within the jail compound but not necessarily in the open. The best arrangement possible is made taking into consideration the number of those attending prayers, the state of the weather and the wishes of the Maulvi.

(*d*) No.

Rai Bahadur KESHAB CHANDRA BANERJI: What is the nature of religious instruction imparted to the prisoners?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have already answered that question.

Outrages on women.

*79. **MUNINDRA DEB RAI MAHASAI:** (*a*) Has the attention of the Hon'ble Member in charge of the Police Department been drawn to the increase in the number of outrages on women in recent years?

(*b*) Will the Hon'ble Member be pleased to lay on the table a statement showing for the last five years—

(*i*) the number of women outraged or abducted in the different districts of Bengal;

(*ii*) the community to which the victims belonged;

(*iii*) the community to which the culprits belonged;

(*iv*) the number of culprits detected; and

(*v*) the number of culprits convicted?

(*c*) Will the Hon'ble Member be pleased to state what special measures Government propose taking to prevent the recurrence of such class of crimes?

(*d*) Are the Government considering the desirability of—

(*i*) issuing orders to the police to be more prompt and vigilant in the detection of criminals of this class of crime; and

(*ii*) drawing the attention of the courts to the necessity of inflicting deterrent punishment to the accused in such class of crimes?

The Hon'ble Sir WILLIAM PRENTICE: (*a*), (*c*) and (*d*) The member is referred to the reply given to starred question No. 53 in this session of the Council.

(*b*) The figures and other details for 1932 are not available. For the four preceding years, the member is referred to the reply given to unstarred question No. 67 in the August session of 1932.

Prisoners deported from Bengal to Andamans.

***80. MUNINDRA DEB RAI MAHASAI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to lay on the table a statement showing—

(*i*) the number of prisoners deported from Bengal to the Andamans a few months ago;

(*ii*) the term of imprisonment of each of them;

(*iii*) the number of the prisoners who recently went on hunger-strike;

(*iv*) the number and names of the prisoners who died as a result of such strike; and

(*v*) the number and names of the prisoners who died for other causes?

(*b*) Did the Government institute any inquiry into the allegations which led to the hunger-strike?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to lay on the table a copy of the report on such inquiry and to state what steps have been taken to remove the grievances of the hunger-strikers?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) and (*ii*) Ninety-six prisoners were deported to the Andamans. In the case of 94 of them the sentence varied from 5 years' rigorous imprisonment to transportation for life. In the two remaining cases the sentences were 3 years' rigorous imprisonment in one, and 4 years' rigorous imprisonment in the other.

(*iii*) to (*v*) The member is referred to the communiques issued by the Government of India on the 28th and 31st May respectively. One Bengali prisoner died from hunger-strike and one of pneumonia.

(*b*) and (*c*) These are matters which are primarily the concern of the Government of India and I am not in a position to make any statement about them.

MUNINDRA DEB RAI MAHASAI: With reference to (*b*) and (*c*), to which province do the prisoners belong?

The Hon'ble Sir PROVASH CHUNDER MITTER: The answer shows that they belong to Bengal.

MUNINDRA DEB RAI MAHASAI: Is it not the concern of the Bengal Government to keep notes of what has been done by the Government of India in regard to the Bengal prisoners?

The Hon'ble Sir PROVASH CHUNDER MITTER: We get certain information, but these prisoners are not under our administration. The informations we receive we usually give. The Andamans are not in our jurisdiction, and any question relating to these prisoners might well be addressed to the Government of India.

Detenu Pandit Dhara Nath Bhattacharji.

29. Mr. A. F. M. ABDUR-RAHMAN: (*a*) Will the Hon'ble Member in charge of the Political Department aware—

(*i*) that Pandit Dhara Nath Bhattacharji has recently been transferred to Bogra from the Hijli detention camp;

(*ii*) that he is suffering from chronic dysentery and rheumatism;

(*iii*) that when in acute pain he is unable to put on his own cloth without the help of others;

(*iv*) that the tin shed which has been provided for him is subject to the mercy of the rains and the winds; and

(*v*) that the climate of Bogra dotes not suit him at all?

(*b*) Are the Government considering the desirability of transferring him to some healthier place?

(*c*) Does the Hon'ble Member consider the allowance of Rs. 29 per month which has been granted to him sufficient to maintain him by engaging a cook for preparing his meals and a servant to attend on him, as he is physically unfit either to prepare his food or to do any sort of manual work?

(*d*) Will the Hon'ble Member be pleased to increase his allowance in consideration of his age, health and social status?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*) Yes.

(*ii*) and (*iii*) He is reported to be suffering from rheumatism and gout and to find difficulty in moving about.

(*iv*), (*v*) and (*b*) The question of transferring him to a drier place is under consideration.

(*c*) and (*d*) Government are satisfied that his present allowance is adequate for all his needs.

MUNINDRA DEB RAI MAHASAI: With reference to (*c*) and (*d*), has the Hon'ble Member calculated the cost of two servants and fooding and clothing?

The Hon'ble Sir WILLIAM PRENTICE: The allowance is adequate for all the needs that were considered necessary.

Sitting accommodation for persons attending court at the time of revenue sale.

*82. **Mr. ANANDA MOHAN PODDAR:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that there is no proper sitting accommodation for respectable persons attending court at the time of revenue sale?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of taking steps to remove the grievance?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) No. Government have not received any such complaints.

(*b*) Does not arise.

UNSTARRED QUESTIONS

(answers to which were laid on the table).

Nazarat system.

28. Babu LALIT KUMAR BAL: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) in how many districts the separate Nazarat system is in force up till now; and

(*ii*) the reasons for not introducing the central Nazarat system in the said districts?

(*b*) Will the Hon'ble Member be pleased to state the number of process-servers enlisted in the Barisal munsifs' courts Nazarat and the Judges' courts Nazarat separately?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*) A separate Nazarat is maintained for each civil court station in all the districts of Bengal.

(*ii*) The nature of the work to be done makes it necessary to maintain separate Nazarat at each station.

(*b*) 66, 53 and 48 in the munsifs' courts Nazarats at Patuakhali, Pirojpur and Bhola respectively and 147 in the District Court Nazarat at Barisal, Sadar.

Ministerial officers in the offices of District and Subdivisional Magistrates in the 24-Parganas.

29. Mr. A. F. M. ABDUR-RAHMAN: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) what is the total number of ministerial officers working at present in the offices of District and Subdivisional Magistrates in the district of the 24-Parganas;

(*ii*) how many of them are *bona fide* residents of the district;

(*iii*) how many of them are Muhammadans; and

(*iv*) whether the minimum percentage of Muhammadan appointments has been reached in their offices?

(*b*) If the answer to (*a*) (*iv*) is in the affirmative, are the Government considering the desirability of reserving all future vacancies in the said offices for Muhammadans till their maximum percentage is arrived at?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) 205.

(*ii*) 74.

(*iii*) 67.

(*iv*) No, the number is one less than the prescribed percentage.

(*b*) Does not arise.

Failure of crops in Chuni in the 24-Parganas.

30. Dr. NARESH CHANDRA SEN GUPTA: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether his attention has been drawn to the fact that crops have failed for three successive years in a vast area covering about 200 square miles in Ghuni and the adjoining villages in the 24-Parganas district?

(*b*) Is the Hon'ble Member aware that the natural drainage of the lands is interrupted by the Krishnapur canal maintained by the Government?

(*c*) If the answers to (*a*) and (*b*) are in the affirmative, do the Government contemplate granting remissions of rent to the *khas mahal* tenants of this area on account of the loss of crops?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) A considerable area is liable to floods, but the extent of the floods in the last 3 years is not definitely known. Inquiry is being made.

(*b*) The canal interrupts the drainage channels of certain areas.

(*c*) There are very few *khas mahal* tenants in the area affected by the floods. No general order for remission of their rents can be passed, but each case will be considered on its merits.

The Hon'ble Sir PROVASH CHUNDER MITTER: May I point out, Sir, to a printing mistake in my answer (*a*). "8 years" should read "3 years."

Maulvi TAMIZUDDIN KHAN: With reference to (*b*), have the Government considered the desirability of removing the interruptions in the drainage channels?

The Hon'ble Sir PROVASH CHUNDER MITTER: That is a matter which is not in my department. But Government are trying to see if anything can be done.

Khan Bahadur Maulvi AZIZUL HAQUE: Has the Revenue Department sent a note to the Irrigation Department in regard to this matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: I am afraid I cannot answer that question.

Dr. NARESH CHANDRA SEN GUPTA: Do I understand the Hon'ble Member to say that Government propose to do something to relieve these people by removing their grievances, in spite of the drainage channels this year?

The Hon'ble Sir PROVASH CHUNDER MITTER: Government propose to inquire into the matter and see whether any suitable remedy can be provided. But the actual remedy is not so easy to find out as some people imagine.

Dr. NARESH CHANDRA SEN GUPTA: Have the Government made any inquiries during the last three years?

The Hon'ble Sir PROVASH CHUNDER MITTER: Government have repeatedly considered the matter, but it is difficult to find out a remedy.

LEGISLATIVE BUSINESS

NON-OFFICIAL MEMBERS' BILLS.

The Bengal Money-lenders Bill, 1933.

Clause 2.

Mr. PRESIDENT: We now go back to the amendments which were before the House yesterday.

Rai Sahib AKSHOY KUMAR SEN: Sir, I rise to oppose the motion of Mr. W. H. Thompson. The word "money-lender" occurs in all the sections of the Bill—commencing from sections 3 to 10, excepting sections 6 and 10. If Mr. Thompson's motion is carried it will exclude all registered companies——

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, may I be permitted to intervene at this stage, inasmuch as it will avoid the waste of time of this House, and to inform the members that I propose to move a short-notice amendment to clause 5 with a view to accommodate Mr. Thompson and others who think that *bona fide* banking institutions should be excluded——

Mr. PRESIDENT: Khan Bahadur, I am afraid you will have to wait till clause 5 is taken up.

Khan Bahadur Maulvi AZIZUL HAQUE: Mr. Thompson will probably withdraw his amendment——

Mr. PRESIDENT: As he has not done so yet, the amendment is still before the House.

Rai Sahib AKSHOY KUMAR SEN: Sir, as I was saying, that if Mr. Thompson's motion be accepted, it will exclude all registered companies and societies from the operation of this Bill; this is certainly objectionable.

The motion intends to lay an axe at the root of private banking business while maintaining the business of registered companies with which many of our European friends have connections. I do not understand why this partiality should be observed for the one and apathy for the other. The private banker helps his neighbour and friends when necessity demands, and small loans are always available from such bankers; while registered companies and societies, most of which are situated in towns, are not easily and promptly accessible. Why such an invidious distinction should be made between registered companies and private bankers? The intention of the mover of the Bill, nay the salutary effect of the Bill, will be made nugatory if the big money-lenders, going under the name of registered banks and societies, are exempted from the operations of the principal clauses of the Bill.

Sir, the neighbour money-lender shows sympathy to his neighbour-debtor, and in many cases I have found that substantial remissions have been made by such money-lenders and that many of them have readily taken their money in instalments; while this is invariably denied by registered banking concerns. They say that in doing so, they must have a meeting of the company and such meetings under the articles of most of such companies are to be held at the cost of the debtors, who have to pay the travelling allowances and compensations of directors of such companies. Mr. Thompson hates the epithet "money-lender." I do not know why. Is a corporate body of registered money-lenders lending money less hateful than a money-lender doing the

same business individually? Perhaps, Mr. Thompson forgets that morally there is no distinction between section 392 and 395 of the Indian Penal Code. The laudable object of the Bill will be wholly defeated if the motion of Mr. Thompson is accepted. I would appeal to the hon'ble members of this House to consider the matter seriously before they lend any support to Mr. Thompson's motion.

Sir, with these words I strongly oppose the motion and hope that the House will reject it.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I regret very much that I am unable to support the amendment of Mr. Thompson as it stands. The words "primary object" have lent a different meaning to the amendment. The object of this Bill is to save the debtor from the clutches of the extortionate money-lender. Mr. Thompson wants to draw a line of distinction between banking corporations or companies whose *primary* business is money-lending, and whose *secondary* business is also the lending of money. There can be no primary or secondary object in regard to the business of money-lending. Whoever may be the exacting money-lender whether it is a banking corporation or an individual, he must be dealt with under the provisions of this section. If this amendment is accepted, it will benefit only a certain class of companies or banking corporations which Mr. Thompson has in view as has been rightly pointed out by the Rai Sahib. I strongly object to this amendment which will benefit one class of banking corporations or companies while others whose primary object is to lend money such as loan offices, etc., will be seriously handicapped as a result of this enactment.

Mr. C. C. MILLER: Sir, I rise to inquire whether the member in charge of the Bill and the Government will accept a short-notice amendment to clause 5, which will have the effect of excluding legitimate banking companies from the operation of this clause?

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I have already informed the House that I am prepared to accept an amendment of that nature in so far as it excludes *bona fide* banking business firms from the operation of this clause.

The Hon'ble Sir WILLIAM PRENTICE: Sir, Government have already shown the draft of such an amendment to the leader of the European group.

Mr. W. H. THOMPSON: Sir, under that condition, I am prepared to withdraw my amendment.

Mr. PRESIDENT: I am afraid I cannot allow any conditional withdrawal. Are you prepared to withdraw it unconditionally?

Mr. W. H. THOMPSON: Sir, I withdraw it.

Mr. W. H. Thompson's motion was then, by leave of the House, withdrawn.

Mr. PRESIDENT: So members need not refer to this amendment any more as it has been withdrawn. The other amendments are, however, open to discussion. Amendments Nos. 22, 29, 31 and 32 are now before the House.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose all these amendments for the simple reason that this Bill attempts to protect the debtor against extortionate rates of interest. The main operative clause will govern only so far as the realisation of debts through courts is concerned, but it will not affect in any way any realisation which may be made privately. As it is so, I do not see why the rate of interests which has been provided for, *viz.*, 10, 25 and 12½ *per cent.*, should not be considered as sufficient for all *bonâ fide* money-lending business. In that view of the matter, Sir, I oppose all these amendments.

Babu Satish Chandra Ray Chowdhury's motion was then put and lost.

Babu Jatindra Nath Basu's motion moved by Mr. S. M. Bose, was then put and lost.

Munindra Deb Rai Mahasai's motion was then put and lost.

Kazi Emdadul Hoque's motion was then put and lost.

The motion that clause 2 stand part of the Bill was then put and agreed to.

Clause 3.

Mr. PRESIDENT: The question before the House is that clause 3 stand part of the Bill.

Mr. SARAT KUMAR ROY: I beg to move that in clause 3, in lines 2 and 3, for the words and figures "the Usurious Loans Act, 1918," the words "this Act" be substituted.

Sir, there is no reason why this Bill should have any retrospective effect. When the Usurious Loans Act, 1918, was passed, the Legislature did discuss what will be a fair limit of the rate of interest which money-lenders can demand from their borrowers, and such rate has been incorporated in the Act.

The money-lenders have obeyed the limitation put by the Legislature upon their demand so long. If they have not violated the express provision of the law why should they suffer at all, and it is improper to penalise them now. It is highly inequitable to ask them to forego their legalised claims.

I, therefore, strongly oppose the provision for giving this Bill any retrospective effect.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to oppose the amendment for the simple reason that what is called for at the present time is relief to agriculturists and other debtors from their accumulated indebtedness. If retrospective effect is not given to the provisions for rates of interest, in that case the Bill will have practically no meaning at all. For the future, things may be left to adjust themselves as sufficient experience has been gained both by the creditors and debtors, and there is little apprehension that each party will not in future try to avail himself of the experience gained. But the difficulty of the cultivators and the debtors is that on account of the slump in trade it is impossible for them to pay the debts which have accumulated so long without having to sell out all their lands, especially as the prices of their lands have in some cases fallen below the principal of their loans. What is absolutely necessary is that some provision should be made, some legal measure should be adopted, with a view to clear up this indebtedness of the cultivators. The principle of the Bill has been accepted by the House, and we are all anxious that there should not be any difference on this point between one member and another. Let there be a clear recognition of the fact that cultivators and peasants are groaning under a heavy load of indebtedness and it is our common interest to set them on their legs. Government also is bestowing very anxious consideration as how to lighten the past indebtedness of the *raiyats* although land mortgage banks and other proposed measures have not yet materialised. So I think it is up to us not to be so unsympathetic as to lend our support to this amendment, but to do away with a provision of the Bill which really is the only provision which matters. So I oppose the amendment on these grounds.

Rai Bahadur SATYENDRA KUMAR DAS: I rise in support of the motion, and my reasons are these: If you allow the present Act to have retrospective effect, then nobody will take the present Act seriously. And there will be reasonable grounds for not taking the provisions of

the present Act seriously, because people would think that after a few years—this time it may not be 15 years—this Act may totally be made ineffective by a subsequent Act, having a retrospective effect. You want that the provisions of this Act will be binding from 1933. We can understand it, because it must be obeyed.

Now if you want the provisions of this Act to be binding since 1918, then the loan transactions of the last 15 years will be upset and legal complications will multiply to such a degree which very few of us can imagine.

Mr. ANANDA MOHAN PODDAR: Retrospective effect is sought to be given by the inclusion of these words in the clause. There is no reason why creditors should be penalised for their forbearance to sue debtors in respect of transactions after the passing of the Usurious Loans Act and before the passing of this new Act. Retrospective operation, as sought to be given to the presumption created by this section, does not seem to be justifiable and cannot be supported. It would unsettle existing relations between debtors and creditors which were created by the existing law and would be unjust to the latter and of doubtful benefit to the former. For these reasons the section should apply only to transactions entered into after the passing of this Act.

Babu KHETTER MOHAN RAY: I support the amendment moved by my friend Mr. Sarat Kumar Roy. The Bill is intended for the future transactions. There is no reason why the transactions which took place some years before the introduction of the present Bill should be penalised. Clause 3, if enacted, will interfere with the transactions which are quite legitimate and lawful under the existing law. If the rate of interest is considered excessive in the circumstances of each case, the Court has ample power to deal with such cases and afford relief to the debtor. I strongly object to the enactment of this clause in this form, as it will interfere with the contracts openly entered into by parties with eyes open which are not in any way considered illegal or hard or unconscionable bargains according to the law which obtained at the time of the transactions. If the clause is retained, the sanctity and safety of contract made by parties will be gone. It is the accepted principle of a Legislature that the legislation enacted by it always preserves the previous state of things which prevailed before the law has come into operation. I have not heard any reasons why there should be a departure from the principle.

Maulvi TAMIZUDDIN KHAN: I beg to oppose this amendment. My friend Babu Khetter Mohan Ray says that if this clause is carried, or if retrospective effect is given to this clause, then the sanctity of

contracts which have already been entered into will be interfered with; but if some relief is to be given to the poor cultivators and debtors, clearly something must be done. My friend cannot preserve the sanctity of previous contracts to the very letter and also at the same time seek to give relief to the debtors who are in great distress. Some sacrifice has to be made in some quarters, but would it be really inequitable to pass this clause, that is, to give retrospective effect to this clause? I say it will not be so, because members will admit that when the previous contracts were entered into, the value of money was far greater than what it is at present. A man who borrowed Rs. 100 in the year 1929, if he has to pay that sum now, will have to pay actually not Rs. 100 but Rs. 130, that is Rs. 30 more, because the purchasing power of money has now increased to a very large extent. That is, that man will have to pay 30 *per cent.*, more on his principal. Therefore, the passing of this clause will not be at all inequitable, if the value of the agricultural products that is in vogue now and that was in vogue some years ago when the contract was entered into, is taken into consideration. Therefore, if some relief is to be given, it is absolutely necessary that retrospective effect should be given to this clause. I, therefore, strongly oppose the amendment.

Dr. NARESH CHANDRA SEN GUPTA: I am afraid that speakers who have supported this amendment were talking without their book. Babu Khetter Mohan Ray suggested as if this was the first time that we were trying to make any inroad upon the terms of a contract. If he has read the Usurious Loans Act, he will find that that Act already provides for the Court giving relief against contracts when the rate of interest is excessive and harsh. This clause only seeks to provide a guidance to the Court and a rule of presumption. Where the interest exceeds a certain limit, the Court will presume—but that presumption is not conclusive—that it is harsh, and then the Usurious Loans Act will come into operation, and the Court will exercise its discretion. In doing so, I do not think we are really giving retrospective effect to this Bill. If retrospective effect had been proposed to be given to the Bill, we should have provided that in every case where the interest charged exceeds the amount of interest provided in the Bill, the Court would disallow that interest, but that is not going to be done. Here the Court will only presume that it is usurious and in that case the Court may exercise its discretion one way or the other. That presumption may be rebutted by showing the circumstances in which that particular contractual rate was justified, and the Court has got the power to decide that the presumption has been rebutted. It is only giving a guidance to the Court in a matter of making a presumption with regard to the rates of interest. I do not think that, strictly speaking, we can call it giving a retrospective effect; rather, it is only supplementing the Usurious Loans Act.

Rai Bahadur KESHAB CHANDRA BANERJI: I regret I am unable to accept the interpretation given by Dr. Naresh Chandra Sen Gupta of certain sections of the Usurious Loans Act, 1918. Sir, the Usurious Loans Act is wide and stringent enough. It has given drastic powers to the Court and if anybody has any grievance against a particular money-lender he can seek the protection of the Court and the Court can give him relief under this Act. It is certainly giving retrospective effect to the clause, as has been suggested by Babu Ananda Mohan Poddar and other speakers. It is not understood why the provisions of this Act of 1918 should be made to apply in connection with the present Bill. The Usurious Loans Act is powerful enough and it can take care of itself. With these words, I support the amendment.

Maulvi ABDUL HAKIM: I rise to oppose this amendment. This is another attempt to kill the debtors. Sir, we all know that the usurious money-lenders have closed their doors since the beginning of the economic depression, and cultivators do not get any loan from them now, and there is no hope that they would get any loan in future, if such economic crisis continues for ever. But that is not calculated to do much harm to the cultivators, as they are compelled by circumstances to carry on their cultivation and maintain their families at a very reduced cost. But the appalling calamity of the cultivators is their debts with usurious interests, which they have already incurred. If no remedy is made by this Bill regarding their existing usurious debts and the worldwide economic depression continues for some years more, millions and millions of debtors will be ruined by the usurious money-lenders in a short time, and in that case no useful purpose would be served by passing this Bill. It is a fact that owing to the inability of debtors to repay their debts at this time of economic calamity, almost all the money-lenders of our country are willing to accept only the principal amounts from their agriculturist-debtors if they can pay them within a few years. As for example, I may mention the name of my colleague Babu Satish Chandra Ray Chowdhury. Some time ago, he convened a large meeting and made an open declaration not only on his own behalf but also on behalf of all other money-lenders of his locality that the debtors might return only the principal if they could pay their principal amounts in 3 years. I cannot but thank Satish Babu in this Council Chamber for this benevolent declaration of his on behalf of poor cultivators. Again, yesterday, at the verandah of this Council House, I asked Babu Ananda Mohan Poddar also, who is the Secretary of the Bengal Mahajan Sabha whether like Satish Babu he too was willing to remit the interests on his loans in respect of agriculturist people, whereupon he too consented verbally that he is also willing to do so. If he can go so far as to admit verbally at the verandah of this Council House that he is willing, like Satish Babu, to remit interest on his loans for his agriculturist debtors if they can pay their principal

amounts within a certain period, then I cannot understand why he is not willing to give retrospective effect to this Bill on the floor of this House with only a reduced rate of interest for the benefit of the poor agriculturists.

Why are the money-lenders not willing to give the rights and privileges of this Act to the cultivators in respect of their existing debts which they have already incurred and for which they are getting no advantages under the Usurious Loans Act of 1918?

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I oppose this amendment on grounds more or less similar to those which Dr. Sen Gupta has just now suggested to this House. The Usurious Loans Act was passed in 1918. I ask my friend who has sponsored this amendment, and those who have supported the amendment whether they have cared to find out the facts and the circumstances which have sprung upon the debtors since that Act was passed. Is it or is it not a fact that the Usurious Loans Act has been a complete failure for the simple reason that no definite rate of interest is given there, and the Courts do not follow any definite principle in deciding such cases. I may say that the opinions of the judicial officers have been taken not merely once but several times, and it is the unanimous opinion of every judicial officer that the Usurious Loans Act has been a failure. Sir, I hope I shall not be unnecessarily detained the House when I say that it is not only in Bengal that the Act has been a failure but in England a similar law was passed on the lines of that Act and it also failed equally. It was in 1927, exactly on the same lines of this section as it stands, a law had to be promulgated with a view to determine the limit within which the Usurious Loans Act will be definitely operative, and the presumption was shifted to the money-lender instead of to the debtor. What is being aimed at by this provision? It is not aimed at a case where the rate of interest is up to 12½ *per cent.*, on a secured loan and 25 *per cent.*, on an unsecured loan, but where the rates exceed those figures there is compound interest and a stipulation for rests at intervals of less than six months, in such cases the Court shall presume that it is usurious, and it is for the plaintiff to show that it is not usurious. This is exactly on the lines of the English Money-lenders Act, and, as I have said, the previous law failed. Sir, I am sometimes surprised that we are so much ignorant about the state of affairs in other countries and in other provinces. I was just going through a book—a book which is probably available to every member of this House—where it is said that in an Australian State a series of Acts have been passed within recent years by which mortgagees cannot execute a decree or otherwise bring any pressure on the debtor without the permission of the Court. There is another State where the creditors were debarred from demanding either the principal or interest on the loan without the special leave of the Court. These

countries are now the models so far as relief to agricultural indebtedness is concerned, and yet even though the problem is so vast in this country nothing has been done, and when a modest Bill of this nature is brought before the House, all the noble theories of the Manchester school are up against it and all exploded theories are brought forward and the sacrosanct nature of contract is stressed upon. Sir, there is great difference between the position of a debtor and a creditor. The creditor is practically in a dominating position, and the law all the world over is that when a party is in a dominating position, it is always necessary to give relief to the other party. I may also say, Sir, that in the Central Provinces a law has been passed by which efforts are being made to compose the debts. The United Provinces has also recently published three Bills to tackle this problem and Madras and the Punjab are all trying in their own way to tackle this problem, and yet when a Bill of this nature is brought before this House it is seriously opposed. I want to assure my friends that this provision is not of a retrospective character at all, but it has been inserted with a view to clarifying the issues by which the limits provided by the Usurious Loans Act can be made operative. In the district from which my friend comes the Courts have decreed 75 *per cent.*, or even 100 *per cent.* Is no relief to be given to the debtors under such circumstances? I think, Sir, it is hardly necessary for me to explain why it is essential that some definite figure should be given by which the Court can definitely hold that the Usurious Loans Act is operative. I oppose the amendment.

Mr. Sarat Kumar Roy's motion was then put and lost.

Babu HEM CHANDRA ROY CHOUDHURI: Sir, I beg to move that in clause 3, line 3, the words "rate of" be inserted after the words "it is found that the" and the words "the rate of" in line 4 of the said clause be omitted.

Sir, my interpretation of the clause as it stands, namely, that "the interest charged exceeds the rate of 12½ *per cent.*, *per annum* in the case of a secured loan or 25 *per cent.*, *per annum* in the case of an unsecured loan or that there is a stipulation for rests at intervals of less than six months" is that the total amount of interest including both the compound and simple interest must not exceed the rate of 12½ *per cent.*, in the case of secured loans and 25 *per cent.*, in the case of unsecured loans. The effect will be that in both the cases the simple interest and no compound interest will be allowed, because "interest charged" means the total amount of interest and not the rate of interest. So when a person claims Rs. 100 inclusive of his compound interest, and if that Rs. 100 exceeds 12½ *per cent.*, *per annum* or 25 *per cent. per annum*, as the case may be, he will not get that amount, though actually the rate of interest is 12½ *per cent.*, or 25 *per cent.*, or even below that. I think there is no reason why this compound

interest will not be allowed in the case of past transactions, whereas under clause 5 compound interest is proposed to be allowed in the case of such transactions. The alternative of a stipulation for rests at intervals of less than six months has no meaning, because if compound interest is not allowed, this alternative clause becomes redundant, and for the purpose of safeguarding the interests of money-lenders and those who give loans on compound interest at a much lower rate of interest, I think compound interest should be allowed. For this reason I propose the insertion of the words "rate of" as indicated in my amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose this amendment exactly for the reason which my friend has enunciated for amending the clause. My friend probably forgets that what is aimed at is to find a limit and that limit is based on the amount that is charged at the time the amount is realised and not at the time when the amount was borrowed. If my friend is conversant with all the intricacies of the money-lending business, he will realise that it is always possible to devise some system by which the provisions of the law can be circumvented. I also bring to the notice of my friend that this language is exactly on the same line as that contained in the English Money-lenders Act. If my friend says that there is redundancy in the clause, why should it affect the interests of the loan offices, and if he thinks that this section has some meaning and that is incorporated in the previous clause, then his point is meaningless. I feel that this language has been deliberately chosen and that language is the language of the Usurious Loans Act. In that Act the language is that the interest charged is excessive and the transaction was harsh and unconscionable and was substantially unfair. We have to take exactly the same language as the Usurious Loans Act, apart from the fact that ultimately this is the substantial issue in this section. I oppose the amendment.

Babu Hem Chandra Roy Choudhuri's motion was then put and lost.

Maulvi ABUL QUASEM: I beg to move that in clause 3, for the figures "12½" and "25," in both the places where they occur, the figures "10" and "20" be respectively substituted.

Sir, I find from the amendments that have been given notice of by the hon'ble members that a regular battle is going to be waged round the figures that we find mentioned in this clause. The underlying idea is that in spite of contracts having been entered into rates of interest much higher than those given in this particular clause, the law intends to give some protection to the poor debtors including agricultural debtors. The figures that have been suggested are 12½ and 25 *per cent.* There are amendments for both increasing and decreasing these figures. My amendment seeks to adopt a middle course. I suggest that for the figures "12½" *per cent.*, the figures "10" *per cent.* should be substituted and the figures "20" *per cent.* should be substituted for "25" *per cent.*

I feel that if this Council is really anxious to afford relief to the poor cultivators who now find themselves in unprecedented distress, it should seriously consider whether my amendment is worth acceptance or not. The figures "10" are suggested in the case of secured debts. The debt is charged on some property out of which the money is to be realised. The creditor does not stand the risk of losing his money. Therefore, the figures 10, I think, are very just and equitable. So far as the figures 20 are concerned, that must also be considered to be fair and equitable figures in the case of unsecured debts. If the House is going to afford any real relief, it should seriously consider whether it should accept my amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, would it not be better if you take up all the rate controversies, that is, amendments Nos. 44-64 together, and have one discussion?

Mr. PRESIDENT: Very well, we might try that.

The Hon'ble Sir WILLIAM PRENTICE: I beg to move that in clause 3, in lines 4 and 14, for the figures "12½" the figures "15" be substituted.

I am sorry to put a spoke in the wheel of this Bill. Before the Bill went to the Select Committee, Government took care to make inquiries from their officers about the rates current, and 15 *per cent.*, I think, was the lowest rate recommended by them for secured loans. Most of the recommendations were within the range of 18¾ which were very natural figures according to the custom of calculation in India. In a later clause in the Bill, we have provided for 10 *per cent.* compound interest, and in the clause, as drafted, we have provided for 25 *per cent.* for unsecured loans; 12½ *per cent.* for secured loans seems to me to be suggesting to the Courts a figure which has little regard in actual fact and Government consider that the figure that ought to be put in the Bill should be the lowest figure that has been reported by their officers from the districts. I, therefore, recommend that the figures "15" be substituted for the figures "12½" in this clause.

Babu KHETTER MOHAN RAY: Sir, I support the amendment moved by the Hon'ble Sir William Prentice. My reasons are these. The fixing of the rate of interest is an extremely difficult matter, because on the one hand if the maximum rate is too high, it hits the honest debtor as he will find it difficult to repay the loan, but on the other hand if it is fixed too low, then the honest money-lender will be hard hit, because he has somehow to make up for bad debts and has also to make up for the expenses of litigation. We know the money-lender scarcely realises interest on an average of more than 6

or 7 *per cent.*, on his total investment. Considering these things, I should like to put the figures at 15 for secured debts, which I think will not injure either the money-lender or the debtor in any way. With these words, I support the amendment moved by the Hon'ble Sir William Prentice.

Mr. SARAT KUMAR ROY: Sir, I beg to bring to your notice some facts which have very important bearings on the subject.

I do not question that so long as the money-lender can recover his dues from the debtor amicably, he can realise interest at the stipulated rate.

But just consider the cases, where the borrower refuses to pay and the money-lender has to seek his remedy through Court. In such cases, while filing the plaint, the plaintiffs can only claim interest up to the date on which the plaint is filed. It is well known that the suit can be dragged for a pretty long time and throughout this period, *i.e.*, from the filing of the plaint and actual realisation of the decretal amount from the judgment-debtor, the money-lender does not get interest at the stipulated rate. He can at most get 6 *per cent.* interest which the Court generally allows.

As generally happens, owing to absence of any security for the money, it takes a very long time to recover the decretal amount in full. In some cases, it may take years to recover the decretal amount.

Hence, if you take into consideration the period that is occupied for recovering the decretal amount and the rate of interest that the Court allows for such period, you will at once find that the actual amount recovered by way of interest is very small, and is much below the stipulated rate. I, therefore, think that 25 *per cent.* would be a very improper limit of interest for unsecured debts, and should be raised to 37½ *per cent.*

As for secured loans, the rate of 15 *per cent.*, as proposed by the Hon'ble Sir William Prentice, appears to be inadequate.

It is well known that even big Calcutta banks, in normal times, charge interest at 8 to 9 *per cent.*, with monthly rests, on money advanced on very sound and excellent securities.

It must be admitted that such sound securities, as a rule, are not available in the rural areas.

Most of the securities that are offered there afterwards prove very unsatisfactory, and the money-lenders are seriously handicapped in realising their dues.

Hence, having regard to the risk and uncertainty involved, the rate of interest, I submit, ought to be 18¾ *per cent.*, and not 15 *per cent.*, as proposed by the Hon'ble Sir William Prentice.

Rai Bahadur KESHAB CHANDRA BANERJI: *Sir, I rise to support the amendment moved by the Hon'ble Sir William Prentice.* The framer of the Bill is not probably aware of the difficulties under which the borrower in the *mufassal*, a cultivator for instance, has to labour. A cultivator has got to borrow money for purposes of cultivation and to pay his dues to the landlord and other persons. It is under the extreme pressure of circumstances that he is compelled to approach a money-lender for money. The other amendments that have been tabled for the reduction of the rate of interest will give rise to immense difficulties and complications which will affect the borrower more than the money-lender. Sir, it often so happens that a cultivator has to approach a money-lender when he finds that there are no other means of paying his dues, and if the money-lender refuses the loan asked for, the cultivator is done for; he has no other source left to borrow money from. It is well-known, Sir, that in the villages an average cultivator does not borrow a very large sum of money; it ranges between Rs. 15 and Rs. 50 according to the quantity of land in his possession. At any rate that is my experience in my district. In these circumstances, if the money-lender finding that to lend money to such a person would be a losing concern refuses to advance the loan applied for, it is the cultivator who will ultimately suffer. If the object of this Bill is to compel the money-lender to accept repayment of the money invested at a very low rate of interest, it should be carefully considered what effect such legislation will have upon the poor cultivators in the rural areas. The rate of 12½ *per cent.* as contained in the original Bill seems to be rather low and 15 *per cent.* for secured loans as suggested by Sir William Prentice is quite fair. I hope the member in charge of the Bill will accept the amendment. With these observations, I support the proposition.

Maulvi Abdul Hamid Shah addressed the Council in Bengali. The following is a translation of his speech:—

Mr. President, in opposing the Hon'ble Sir William Prentice's amendment, I beg leave to point out that from the report of the Select Committee on the Bill published on 13th January, it appears that he agreed to fix 12½ *per cent.* interest *per annum* on secured loans. But now he advocates 15 *per cent.* He ascribes this change of opinion to suggestions by certain executive and judicial officers and also by important associations. I find, however, that 10 of the District Judges are in favour of 12½ *per cent.*, while 9 of them are against it. Babu B. C. Sen Gupta, 4th Sub-Judge of Mymensingh, points out that in cases of suitable securities the rate of interest even ranges from Rs. 12 to Rs. 6. Again about half the District Magistrates support 12½ *per cent.* The Registrar of Co-operative Societies, in particular, is in favour of it. The Indian Tea-planters' Association and the Indian Mining Federation favour 12½ *per cent.*

As there is no fixed maximum rate of interest in Bengal, both debtors and creditors are verging on ruin owing to the former's fool-hardiness and the latter's inordinate greed of gain. The conflict of interest between debtors and creditors will not come to an end until Government as an arbitrator devise means of maintaining the rights of both the classes in an impartial but rigorous way. I, therefore, request Government and members of the Council to fix the rate of interest by an easy and simple method.

The Provincial Banking Enquiry Committee (1929) estimated that the total liabilities of Bengal peasants amounted to one hundred crores, *i.e.*, Rs. 31 per head on an average and Rs. 43 per acre of cultivated land. But in Bengal the rate of interest *per annum* ranges from Rs. 21 to Rs. 104 on an average and the prices of agricultural produce have gone down unexpectedly; so creditors could not collect a single pie of their dues from 1929 to 1932; and according to the rates of interest now obtaining in the country, the liabilities of Bengali peasants will amount to 300 crores, *i.e.*, Rs. 93 per head, in the near future. In fixing the rates of interest under the law, these facts must be borne in mind.

It is as hopeless for creditors to collect their dues from debtors, closing loan transactions altogether, as it is impossible for debtors to get rid of their previous liabilities without fresh borrowing. Hence the rates of interest must be standardised.

Many apprehend that if the rate of interest be fixed at less than 15 *per cent.*, money-lenders would rather invest their money in some business than lend it. But this apprehension is groundless, in view of the facts that the majority of rich men in Bengal are content with 3 *per cent.* interest which they get from savings-bank and Government promissory notes; that the custom of lending money on 6 to 12 *per cent.* is of long standing and that in April last the Government of India had to wait only for a few minutes to raise a loan of 30 crores at 3½ *per cent.* interest. Moreover, the sad plight of business at present would prevent usurers from taking to trade.

In these circumstances, I once more request Sir William Prentice to withdraw his amendment.

(While Maulvi Abdul Hamid Shah was addressing the Council in Bengali, the Council was adjourned for 15 minutes.)

(After adjournment.)

Maulvi Abdul Hamid Shah concluded his speech in Bengali (*see* above).

Mr. P. BANERJI: I endorse wholeheartedly every word that has fallen from the mouth of Maulvi Abdul Hamid Shah, and I expect that the Hon'ble Sir William Prentice who was listening to his speech—

I hope he knows Bengali very well—will naturally agree with me that he has done full justice to the subject which he seems to have studied so very carefully. Therefore, after listening to his speech, I think everyone should be converted to his view. If I go into the history of this rate of 12½ *per cent.*, and 10 *per cent.*, I must first of all remind the Hon'ble Member that a previous Select Committee, not this Committee, had at one time fixed the rate at 10 *per cent.*, and when a motion to the effect that it be raised to 15 *per cent.*, was brought in, the Hon'ble Member himself opposed it.

The Hon'ble Sir WILLIAM PRENTICE: On a point of order, Sir. Is it in order for a member to disclose what took place in a Select Committee discussion? I carefully refrained from referring to it lest it should be disallowed.

Mr. PRESIDENT: Unless it is in the report, Mr. Banerji had not better refer to it.

Mr. P. BANERJI: Well, Sir, it is in the report that they have fixed it at 12½ *per cent.* It is now argued that after consideration the Hon'ble Member has found that 15 *per cent.*, is the most reasonable figure and that was the reason why I was narrating the incident that took place in the Select Committee. Sir, 12½ *per cent.* is the most reasonable figure, we consider. It has been suggested by Mr. Sarat Kumar Roy that banks have so many monthly rests, etc. But I must tell him at once that when banks charge interest at monthly rests, there are two things which he seems to have confused. One is that of overdraft, that of monthly rests, and the other is loan. In all banks there are 6 monthly rests, and we have fixed 6 monthly rests in the case of compound interest; because all banks are charging 6 monthly rests, but in the case of overdraft they are charging monthly rests. We came to the conclusion that even if a bank charges a monthly rest, it charges a very low rate of interest. Nawab Musharruf Hosain has said that it is now 7 *per cent.* Admitting it to be 7 *per cent.*, the banks at the present day are charging only 1 *per cent.* more than the bank rate. Even at the time when the banks were charging 7 *per cent.* at monthly rests it did not come to 12 *per cent.* Therefore, it will be seen that the banks are charging a low rate of interest. Sir, the object of the Bill is to secure, as I suggested yesterday, the banks, for which a hue and cry was raised by so many members that banks and loan offices would die if this rate were introduced. But as a matter of fact even before this Bill was introduced, I can say without fear of contradiction, and as has been pointed out by my friend Dr. Naresh Chandra

Sen Gupta, that almost all the banks have now taken shelter under section 153 of the Usurious Loans Act (?) and applied to the High Court; that is the position barring a few here and there. But while the banks are trying to take protection under section 153, what is the position of the people connected with them? They are in a hopelessly bad way. Therefore, it cannot be argued on behalf of these banks that they will be in a very bad way after this Bill is passed. I say, Sir, that the working and progress of the banks will not be in any way hampered. If it is now argued that loan offices in the name of banking institutions are charging a very high rate, 3, 4 or 5 *per cent.*, we may say that very well, we have provided 12½ *per cent.*, for loans with security. It cannot be argued also that these banks do not advance loans without security. For, if you go into the balance sheet of the loan offices, it will be found that a major portion of them have advanced money without security to their friends. And wherever they have taken a lot of interest, the poor agriculturists have been charged 3 *per cent.* per month.

It has also been argued that loan offices depend entirely on banks for money. They borrow money from them and invest them at a higher rate of interest among the local people. Well, Sir, if they do so, they have a sufficient margin left for their profit, and even when the money market was very tight, the bank rate was never more than 8 *per cent.*, and the banks charged only 9 *per cent.*, whereas now that rate has become 5 or 6 *per cent.* In those days Government had to borrow at 6 *per cent.*, and now they are borrowing at 4 *per cent.* Therefore, it cannot at the same time be argued that money will not be available. Sir, money was available when the market was very tight even at 9 *per cent.* in Calcutta. Therefore, I say that if these loan offices go out and advanced money at 12½ *per cent.*, there will be left a sufficient margin for them; even if they take loan from the Imperial Bank, they can keep a margin of 1 *per cent.* at least for their use, while the banks in the *mufassal* will easily have a margin of at least 3 *per cent.* So there is no difficulty whatsoever so far as banks are concerned; simply the whole issue seems to have been confused and mixed up; 12½ *per cent.*, was not the rate of interest we favoured, but that was the rate subsequently fixed, and 10 *per rent.*, fixed for 6 monthly rests in the case of compound interest. There is no fear that money will not be available at 25 *per cent.*, for it would be more than 2 *per cent.* per month, and would be an exceedingly high rate of interest. We have given further allowances to those money-lenders who fear that their money may not be realised; but it must be the business of the money-lender himself to see that he advances money to a proper person and not recklessly to a man who has no chance to repay. Otherwise, it would be rather encouraging the system which is already going on in the country. If without the law the system has gone on in the country so long, why do you object that this Bill will

in any way encourage them? We know that there is the practice in Calcutta as well as in the *mufassal* by which Rs. 100 or Rs. 200 is advanced, whereas a note for Rs. 300 or Rs. 400 is taken from the debtor. They do so, but if without this law such a thing exists, then what is the objection to trying to put an end to this thing by this Bill? Therefore, it will be found that the interest that has been fixed at 10 *per cent.*, and 12 *per cent.* should not on any account be changed. The Hon'ble Member has suggested a higher rate and other members, even Mr. Narendra Kumar Basu, have suggested 18 *per cent.*, because in the original Bill the Khan Bahadur had placed it at a higher rate. Perhaps Mr. Basu, who is handling a report now, will give certain high figures and try to justify his proposal. The Khan Bahadur had naturally originally thought that it would be difficult in this Council with so many divergent views to pass a Bill with a low rate and, therefore, put it at a higher rate, but when we came to discuss the Bill, certain figures were put before him which proved to the Khan Bahadur that his rate was too high. He quoted certain very high figures, evidently without knowing the actual state of affairs in the country. We here claim to know more of the country than anybody else and that being the case, 12½ *per cent.* is in our opinion the highest rate that should be put down in the Bill. I therefore oppose the motion.

Rai Sahib SARAT CHANDRA MUKHOPADHAYA: I support the motion of the Hon'ble Sir William Prentice. Sir, anyone having experience of money-lending in the *mufassal* knows it full well that hitherto interests at the rate of 15 to 18 *per cent., per annum* in the case of secured loans were deemed to be a fair and moderate rate. Honest money-lenders, loan offices and banks have been charging interests on secured loans at that rate. In this province the land laws do not make secured loans free from risks. Previous to the passing of the new Bengal Tenancy Act, occupancy holdings were non-transferable and so money-lenders, in taking securities of occupancy holdings, practically placed them at the mercy of the landholders who always charged heavy *salami* for recognition of auction purchases of occupancy holdings, for non-payment of which the landlords could take *khas* possession. Even under the new Tenancy Act, though occupancy holdings are made transferable, heavy premiums are to be paid. Furthermore, there is almost always the risk of non-payment of rent by the mortgagor, and the mortgagee has often to pay up the arrears of rent to protect his interest. So hitherto the rates of interest in case of secured loans have been fixed by taking into consideration the above risks, and lying upon the sanctity of these contracts honest money-lenders have often done acts and incurred liabilities, which they would not have otherwise done.

Cases are not wanting in the *mufassal* in which a solvent man (not a money-lender in the real sense of the term) has himself borrowed a

sum or part of a sum at interest of 15 *per cent.* on a handnote and has lent that amount at an interest of 15 *per cent.* on mortgage simply to help the debtor. Such a case would also come within the wording of this clause. Therefore, a revolutionary change with regard to the rate of interest is objectionable when it is made to apply to past contracts, and it becomes still more objectionable when the rate is fixed so low as 12½ *per cent. per annum.*

Myself, with nearly 30 years' experience as secretary of one of the big loan offices of this province, I can tell the House that if the rate of interest in this clause in case of secured loans be not raised to 15 *per cent.* as has been suggested by the Hon'ble Sir William Prentice, the President of the Select Committee in his minute of dissent, most of the loan offices and *mufassal* banks would collapse, as the majority of their previous secured loans bear interest at the rate of 15 *per cent.*, and they have paid interest to depositors and have incurred expenses and liabilities basing their calculations of the expected income at the higher rate.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I beg to oppose this motion. The question here is whether it is necessary to limit the rate of interest on secured loans to 12½ *per cent.* or to 15 *per cent.* as has been proposed by the amendment. As far as I can understand, the reason for moving the amendment is that numerous opinions have been received from the *mufassal* that the existing rates approximate more towards 15 *per cent.*, than to the lower figure of 12½ *per cent.*. That perhaps is a fact, but it is also a fact that the rate of interest in the *mufassal*, particularly against the agriculturists, is very much higher than 15 *per cent.* Here we have come to legislate not on the basis of actual facts, but because the actual practice operates very harshly on the poorer classes of the people—I mean the debtors; that is why this Bill has been brought forward to lighten their burden. The question, therefore, resolves itself as to whether 15 *per cent.* is equitable and fair or 12½ *per cent.* Sir, so far as respectable banks are concerned, I think I am correct when I say that no bank worth its name ever charges interest at a rate higher than 12½ *per cent.* I am not discussing here the question of the rest which has been so much dilated upon by the previous speaker, Mr. P. Banerji, because that will form the subject of another amendment. Sir, it is only the question of the rate of interest which is the subject matter of discussion here.

As I have said, Sir, no bank or incorporated loan office, if it is respectable, does ever charge interest at a rate higher than 12½ *per cent.* if the loan is secured by mortgage of property or by approved security. Therefore, I do not think that the lowering of the rate to 12½ *per cent.*, as is already contained in the Select Committee's Bill, will in any way interfere with the existing *bonâ fide* transactions. The

only societies and incorporated bodies which lend their money in some cases at a higher rate of interest are the co-operative banks. That may, perhaps, be the reason for keeping the rate of interest high in order not to affect these societies. It would be quite fair, particularly at a moment when the indebtedness question is so acute, that the co-operative banks should bring down their rate of interest to relieve the poor agriculturists and cultivators. To a Mussalman, Sir, it is a vital question. It makes all the difference whether a transaction is bad or in the ordinary way of business or *reba* which is usury. The margin between 12½ *per cent.* and 15 *per cent.* is to my mind turns a legitimate transaction into an illegitimate *reba*, and *reba* is absolutely forbidden to the Mussalmans; I do not think any Mussalman, including the member in charge of the Bill, can lend his support to such a rate of interest as 15 *per cent.* I fear, Sir, that we take a very great risk in acting directly against the decision of Government in this matter, but what I feel is that if we do not get what will really relieve the people —if instead of bread we get stone—it is as well that we do not get anything at all. Sir, I oppose the motion.

Dr. NARESH CHANDRA SEN GUPTA: Sir, once again I want to draw the attention of the House to the wording of section 3. We are not fixing in this section any maximum rate of interest allowable by a Court. This section only provides that where the rate of interest exceeds 12½ *per cent.*, the Court shall presume that it is usurious. On the contrary, evidence may be given to show circumstances which will negative the idea of the loan being of a usurious character. Take, for instance, the case cited by Mr. Mukherji. When a man borrows money at the rate of 15 *per cent.* to lend money to another at 15 *per cent.*, and a suit is brought, although the presumption is that the rate is usurious, the Court will decide that it is not usurious. Therefore, special cases of hardship will always be open to equitable treatment by the Court, in spite of this amendment. In the next place, it will be noticed that although 12½ *per cent.* or 25 *per cent.* is fixed as the limit beyond which the Court shall presume the interest to be usurious, it does not prevent a Court from deciding in any particular case in which 12½ *per cent.* or 25 *per cent.* only has been charged as interest, or something less has been charged, that the loan is oppressive and usurious. That is provided in the last part of the section: "this provision shall be without prejudice to the powers of the Court under the said section where the Court is satisfied that the interest charged, though not exceeding 12½ *per cent. per annum* or 25 *per cent. per annum*, as the case may be, is excessive." So even if we accept the amendment of Sir William Prentice, it will come to this: that although where the rate of interest is not above 15 *per cent.*, the Court will not be able to presume that it is usurious; the Court may, on the circumstances of the case, find that the rate is usurious and decide

accordingly. On the other hand, there is nothing in the section, as I have said, which forbids the Court to grant a rate higher than 12½ *per cent.* if that is justified under the circumstances of the case. These are the actual provisions of the clause. Therefore, there is no particular charm or magic in any particular figure. You should investigate under what circumstances a loan should ordinarily be considered as usurious. The rate of 12½ *per cent.* is a reasonably high rate of interest in the case of secured loans. It may be said, as Sir William Prentice has stated, that the usual rate of interest for such loans exceeds 12½ *per cent.* and that it comes to 15 *per cent.* For the matter of that, it goes higher, even up to 25 *per cent.*; but that is not the question. The question is—Is it right or proper that the man who has got money should be entitled to take advantage of his position as a creditor lending money to a person who cannot do without it and charge an exorbitant rate of interest? It has been said that this will be unfair, particularly in respect of loan transactions of the past, but I wonder if those who complain of the unfairness of the rule are really serious about the matter. What do you say of the fairness of asking for the repayment of money with high rates of interest at a time when the value of money has gone up to something like double of what it was when it was lent? The purchasing power of money four years ago was not what it is now. The general price level is such that the purchasing power of money has gone up enormously. It is not the time nor the place to discuss why it has been so, but certainly everybody knows that the policy of the State has had a good deal to do with it; the currency policy of Government has had a great deal to do with it. If that currency policy which has raised the real indebtedness of the tenantry to nearly double is fair, I wonder with what face you can say that compelling the money-lender to receive something approaching the real commodity value of his debt is unfair. The use of these words in this connection, I must say, makes my blood boil. People do not realise that when you are asking a man to repay Rs. 100 taken 4 years ago, you are asking the man to pay double the amount lent to him, and when a legislation is introduced to give some relief to the debtor you say it is unjust, it is unfair, there is the sanctity of contract—a contract which has been belied in its spirit. I say there is no reason why this figure of 12½ *per cent.* should be raised to 15 or 18 or any other figure. If there are special circumstances in any case in which an interest of 15 *per cent.* or 25 *per cent.* is considered by the Court to be fair, that interest will always be granted by the Court. The only effect of this clause as it stands will be to put the burden on the creditor to show that the circumstances of the case justify such a rate of interest.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Is it your pleasure that the amendments standing in the name of myself

and others on this subject should be moved now, or that the amendment under discussion now should first be disposed of?

Mr. PRESIDENT: I think all these amendments could be taken up together.

Rai Bahadur SATISH CHANDRA MUKHERJI: Sir, I beg to move that in clause 3, in lines 4 and 14, for the figures "12½" the figures "18" be substituted.

We are not here fixing the rate of interest for a future loan. These words are to be made applicable to loan transactions brought into existence after the enactment of the Usurious Loans Act of 1918 and, therefore, persons who entered into contracts before 1933 without knowing that such an Act was to come fixed their own interest, and we are going to apply these provisions to transactions which came into existence long long ago—before the new Act was even thought of. Secondly, what is the implication of the section? It enacts a rule of evidence applicable under the Usurious Loans Act. It says, "the Court shall presume that the interest charged is excessive and that the transaction was harsh and unconscionable and was substantially unfair." This the Court is bound to presume under the provisions of this clause. Dr. Sen Gupta says that this is a rebuttable provision. Yes, but, Sir, as a matter of fact, people with *mufassal* experience know how difficult it is to find evidence to rebut this presumption, which is in most cases it is impossible to know. The other consequences will be that the Court will exercise all or any of the powers under the Usurious Loans Act in respect of such transactions. Secondly, as regards the rate, the hon'ble mover says that it should be 15, but the Bill lays down 12½. It has to be remembered that this 12½ is irrespective of the question whether it is the first charge, or the second charge, or the third charge. Under the Bengal Tenancy Act, the landlord has the first charge on the holding and under that and various other enactments for the first charge people do get 12½ *per cent.* I think that 15 *per cent.* ought to be substituted at least for 12½ *per cent.* Considering the conditions in the *mufassal*, I should also say that the rate of 15 *per cent.* is fair.

Mr. A. K. FAZL-UL HUQ: I do not know if the Hon'ble Sir William Prentice has amassed sufficient money to become a money-lender, but his sympathy for the money-lenders has come to me somewhat as a surprise. If he has been influenced by the fact that a large number of persons whose opinions were consulted spoke in favour of a

higher figure than 12½, I wish to remind him of the fact that the voiceless millions in whose interest this Bill has been introduced either did not submit their opinion or did not think it necessary to submit their point of view at all. From time immemorial we have trusted the officials to look after their interests, and they may be right or wrong, but that mentality is there, and it is that mentality which prevents people who really have got grievances from coming forward to place their point of view in such a way as to attract the attention of those who are charged with the duty of legislating in this Council. I would, therefore, ask the Hon'ble Member to take into consideration the fact that the lower figure that has been proposed was arrived at after full and mature consideration. As has been pointed out by my friend, Dr. Naresh Chandra Sen Gupta, this figure only provides a machinery for the Court to start with a certain presumption in order to begin an inquiry. Whether that presumption should cease with the figure of 12½ *per cent.* or 15 *per cent.* may be a matter of difference of opinion, but in other matters even when we start with the figure of 12½ *per cent.*, we may be able to leave it to the discretion of the Court to consider whether the circumstances justify the rate. In adopting the lower figure, I am confident that this House will be placing on the statute book a provision which will be acceptable to those millions for whose benefit this piece of legislation has been brought forward. With these words, I oppose the amendment.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 3 for the figures "12½" and "25" in both the places where they occur, the figures "18¾" and "37½," respectively, be substituted.

Sir, I am aware that in the estimation of some hon'ble members of this House I am rather too old and too antiquated and so bring forward a motion of this description, but I wish to point out to the hon'ble members, who are shedding tears——(A VOICE: Crocodile tears.) I will not say that—who are shedding tears for the agriculturists and the borrowers of the country, that four years ago the Government of Bengal appointed a Provincial Banking Enquiry Committee. It consisted of several members representing different interests and one of the members, rather the member who represented the agricultural interests, was Khan Bahadur Maulvi Azizul Haque, M.L.C., Pleader, Krishnagar, Nadia. That was the gentleman who was representative of the agricultural interests of Bengal on the Provincial Banking Enquiry Committee. That Committee roved the province for about a year, costing the exchequer a tiny little sum. The remuneration paid to the Chairman of the Committee and the travelling allowances of the members came to about Rs. 40,000, the remuneration paid to the Secretary was about Rs. 10,000, establishment charges another Rs. 10,000, and so on and so forth. They produced a very excellent

report, and if I may say so it is brimful of useful information and figures. This report was dated April or May, 1930. I am not quite sure.

Maulvi ABUL KASEM: Take it to be July, 1930.

Mr. NARENDRA KUMAR BASU: My friend Maulvi Abul Kasem with his usual disrespect for dates or even for truth, may take any figure he likes, but I am very punctilious about it. The report is dated 15th May, 1930. In that report the figures for the whole province were tabulated, and it was stated that the proportion of secured to unsecured loans taking the province as a whole was 20: 80, but the proportion of the value of secured loans to that of unsecured loans was 9: 10, and in giving a table of the rates of interest prevalent in the province on page 198 of the report, they set out the rates which showed that the money-lender's usual rate prevalent in the districts was anything from 10 to 15 in Jalpaiguri to 37½ to 300 in Pabna. We all do deplore that the rate of interest in the province is so high. I draw attention to the date of the report, because it was after his experience as the representative of the agriculturists in the Banking Enquiry Committee that Khan Bahadur Azizul Haque brought forward his Bill. I am not exactly sure about the date on which he introduced it. In his Bill in the corresponding section to the present section 4, he said that the presumption would arise in the case of unsecured loans when the rate of interest exceeded 37½ *per cent.* and in the case of secured loans 18¾ *per cent.* I submit that he had done it because of his experience in the Banking Enquiry Committee, and he was of opinion at that time that probably that would be a fair rate and, if I may say so, would be the commercial rate at which money would be available to agriculturists whose special interest he was watching in the Committee. To the surprise of the Hon'ble Member in charge of the Bill and I take it to the surprise of several other members of the first Select Committee, he found that the feeling in the Select Committee was that his rates were much too high and that he with safety could go down by more than 50 *per cent.* of his previous figures. So he came down to 12½ *per cent.* As a previous speaker, Mr. Momin, said, the idea of this legislation was not on the basis of actual facts. It is always on the basis of, what shall I say, not chimerical or future electoral campaigns, but on the basis of utopia. I submit that it would be an insult to the intelligence of the members of this House to ask them to legislate on the basis that Mr. Momin has asked them to do. He has also said that if you put the figure at anything higher than 12½, you make it very difficult for the Muhammadan money-lenders, because up to 12½ the Muhammadan money-lenders would consider it to be legitimate, but if you make it over 12½, then they would consider it to be too high. I submit that this Bill does not make

it incumbent upon any money-lender, Muhammadan, Hindu or any other person, to lend out his money at the maximum rate mentioned in this section, nor does it make it incumbent upon a Muhammadan borrower to take his loan at the maximum rate laid down in this section. All that this section says is that beyond such and such a rate the Court shall presume the thing to be usurious. I submit that if as a result of the Banking Enquiry Committee, which reported in 1930, we find that the proposed rates are much too low and since then during the last three years the economic position of the country has not improved nor has money become more plentiful in the country—I speak with a great deal of trepidation in the presence of the Hon'ble Finance Member, but I take it that he will not contradict my statement—but since then the province has not grown richer, it is idle for this Legislature to pass a law, which they can very well pass by a majority or even unanimously, which would not be compatible with the true facts prevailing in the country and which is more or less likely to be a dead letter, and we would thereby not only add to the discontent in the country but become a laughing stock of the country.

Babu JITENDRALAL BANNERJEE: Sir, the figures given by Mr. Narendra Kumar Basu leave me stone-cold; nor do I understand what point he sought to make by reciting the figures from the Report of the Bengal Provincial Enquiry Committee. If it was wanted to prove that the rates prevailing in the country are much too high, then that is a point which does not require any repetition; but the question to be asked is not whether the rates are high, but whether they should be permitted to continue, and here it is that the opportunity for the present legislation comes in. We, on this side of the House, are determined to prove that these rates—harsh, unjust, excessive and unconscionable as they are—shall not be permitted to continue whatever the state of things in the country may have been or may not have been.

Sir, in discussing this question I should like to accept entirely *in toto* the arguments adduced by my friend, Dr. Sen Gupta, but I should like to supplement them by certain concrete figures. The relationship between creditors and debtors can never be properly understood without reference to commodity prices. A borrower borrows money—say, Rs. 100 only. The money itself is a mere token, symbol, index, of what he gets, *i.e.*, money's worth: so, also, when a borrower repays money, it is a symbol, a token of what he repays—money's worth. And so far as this money's worth is concerned, there has been a tremendous revolution since the year 1918, which is the year mentioned in clause 3. What was the average price of paddy in the year 1920? It was Rs. 4 per maund. What is the average price of paddy to-day? It is one rupee four annas per maund. Leaving aside the question of jute when a cultivator borrowed Rs. 100, in the year 1920, what did

he actually receive? He received only 25 maunds of paddy. But to-day, when he repays not the interest but simply the principal, he really gives 100 maunds of paddy in exchange. Therefore, even if the bare principal is repaid, the lender will be paid 300 *per cent.* over. Is not that sufficient to cover any reasonable amount of interest that a man is entitled to receive? But here the law guarantees him an interest of 12½ *per cent.* over and above this. What more can anyone require unless he is a veritable Shylock?

Sir, we have heard much about the sanctity of contracts. It is a meaningless phrase repeated as a mere formula. If this sanctity of contract were to be literally and rigidly observed, then every Shylock would be entitled to have his pound of flesh, whether a man died or lived! But beyond the sanctity of contract there is the sanctity of human life, there is the sanctity of human property, there is the sanctity of man's labour which we seek to protect by this legislation from the usurious grasp of money-lenders.

Maulvi ABDUL HAKIM: Sir, I rise to oppose both the amendments. I see no just reason why the Hon'ble Sir William Prentice and Babu Narendra Kumar Basu are so much sympathetic towards the usurious money-lenders and have brought these amendments which would crush all hopes of mortgagors to redeem their properties at this time of economic calamity in the country.

I wish to deal with the amendment moved by the Hon'ble Sir William Prentice, but do not like to labour much upon the amendment moved by Babu Narendra Kumar Basu as the amendment of Babu Narendra Kumar Basu is more absurd than the amendment of the Hon'ble Sir William Prentice, and it will, I think, be discarded by the Council. Indian agriculturists are faced with utter ruin, and it should be our first duty to save them.

Sir, though I believe that this Bill, if passed as amended by the Select Committee, would not be of much avail to the great mass of agriculturist-debtors, yet I hope a large number of those debtors, whose properties are mortgaged but the real value of whose property still now far exceeds the amount of their debts, may redeem their property by selling a portion of their properties to some other persons or to their respective money-lenders by way of compromise. But these debtors would lose this advantage if the exorbitant rates of interest on their mortgage bonds are not reduced by law.

If the high rates of interests on mortgage deeds of agricultural-debtors are not reduced by an Act like this and that Act is not enforced at once, the cunning and avaricious money-lenders, who are stirred up like alarmed birds after the introduction of this Bill, shall deprive even this class of substantial debtors of their properties at this time

of economic calamity. Sir, I emphatically declare before the legislators of this House that, besides the professional usurious money-lenders, there are munsifs and subordinate judges almost in every district, who carry on money-lending business in the name of their reliable relations, ruthlessly realising usurious rates—say, even at the rate of rupees three and annas two *per cent. per mensem*, even on mortgage bonds, in these hard days. There may be a few munsifs or a few subordinate judges who themselves may not be money-lenders, but there are relations among them who are usurious money-lenders of the aforesaid type.

The Hon'ble Sir WILLIAM PRENTICE: Sir, on a point of order, is the member to be allowed to cast reflection on judicial officers in the way he is doing?

Maulvi ABDUL HAKIM: Sir, shall I not be allowed to explain these matters?

Mr. PRESIDENT: I think that you should be careful that your remarks do not cast reflections on judicial officers or make insinuations against Courts of Justice.

Maulvi SYED MAJID BAKSH: Can he not do so in order to illustrate his point?

Mr. PRESIDENT: No, he cannot be allowed to do that.

Maulvi ABDUL HAKIM: Sir, in my opinion this is the real cause why the Usurious Loans Act of 1918 has failed in its operation in respect of the helpless debtors. Those of my colleagues in this House, who are born in Calcutta with silver spoons in their mouths and who do not know how the paddy plants are cut by cultivators, may not know the present miserable plight of agriculturist-debtors as well as the base mentality of the *mufassal* money-lenders, but we who live in villages distant from this luxurious and magnificent city, know fully well in what unthinkable distress the helpless and wretched debtors are passing their days at this hard time. I am sorry to say why no legal steps have yet been taken to bring a check upon the landlords, when they claim interest at the rate of 25 *per cent. per annum* on their suits for arrears of rent against *raiyats*? Is not the whole occupancy holding for which a rent suit is filed considered in the eye of equity and justice a safer security on earth to these landlords than the security given to a money-lender? Why then 25 *per cent.* interest is decreed in the false name of compensation on indebted agriculturists in these hard days when the price of rice and other agricultural produce has fallen to one-third of the former price?

I do not know the rates of interest in England, but if the rates are higher in that country, those rates are not at all adaptable to the Indian

money-lenders. India is a poor country, and the average income of an Englishman is more than ten times the income of an Indian, and the cost of living in India is also far more less than it is in England. Can you then recommend English rates for the poor Indian debtors?

As I have said in my previous speech to-day, many money-lenders are at heart willing to accept the principal amount from their debtors if they can pay within a few years. Why then are the money-lenders' party anxious to fix such a high rate as Rs. 15 upon the debtors, even in the case of secured debts, at this hard time? If Government is not willing to reduce this rate of Rs. 15 to a lower level, why then has Government passed the Agricultural Loans Act for relieving the poor cultivators in times of distress by giving them loans only at the equitable rate of 6 *per cent. per annum*?

The Hon'ble Mr. Prentice has, perhaps, brought this amendment to save the rural co-operative societies placed under the protection of Government from the scope of this Act. The rural co-operative societies very often realise interest at the rate of Rs. 15 or so. But can I not say that this rate is now excessive, as this rate was introduced in these societies in better days of the country as I said before? Everyone knows that the country is passing through an economic crisis, and the price of all agricultural produce has fallen to one-third of the original price, and one rupee of this time can do the service of three rupees of better times in the *mufassal*. Am I not then justified if I say that the rural societies also ought to reduce their rates, to at least half of its present rates, owing to the worldwide economic crisis? The Egyptian Government has already established land mortgage banks for the relief of the cultivators, fixing rate of interest less than the rate of our agricultural loans, and giving time, as I know, for more than a decade to the agriculturists for repaying their debts. But alas! our Government have not yet established such banks, though our cultivators are almost dying. The agriculturist people are hopelessly indebted. They received stones instead of bread at the time of the Bengal Tenancy Amendment Act. And if the rate of interest is fixed at Rs. 15 on the mortgaged bond, I think it will still be usurious, and this time also the agriculturists would get stones a second time. If the agriculturists are ruined, it would threaten the political, industrial and agricultural improvements of the country.

Lastly, I say that the God of the money-lenders is also the God of the debtors, and this Bill should be based on this benign universal truth and not on Shylockish principles. With these words I oppose this motion, and hope that the Hon'ble Sir William Prentice would accept the rate settled by the Select Committee.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 3, lines 5 and 14, for the figures "25" the figures "18¾" be substituted.

In the Bill clause it is proposed that in the case of unsecured loans the maximum rate of interest should be 25 *per cent.*, above which there will be a presumption by the Court that the transaction is usurious. Now, Sir, the previous Select Committee, if I may refer to it, decided that this maximum should be fixed at 18¾ *per cent.*: the subsequent—or rather the second—Select Committee raised the rate to 25 *per cent.* To my mind, Sir, the rate of 25 *per cent.* is too high. It has repeatedly been said on the floor of this House that banking corporations lend money rarely at a rate above 12 to 15 *per cent.* (KHAN BAHADUR ABDUL MOMIN: It is not above 12½ *per cent.*). Sir, the Khan Bahadur corrects me by saying that it is, never above 12½ *per cent.* There is no reason why, if the banks can flourish by lending money at that rate of interest, individual money-lenders should be allowed to levy a higher rate of interest: but the Bill still provides that they should have the privilege of getting a higher rate of interest, *viz.*, 18¾. That, I think, is a very reasonable rate.

Sir, in this connexion I should like to oppose the amendment that has been moved by the Hon'ble Sir William Prentice. He has stated that the opinions that Government have received are in favour of 15 *per cent.*

Sir, my friend, Maulvi Abdul Hamid Shah, has said that that the majority of the District Judges consulted were in favour of 12½ *per cent.*, rather than of a higher rate of interest. I cannot vouch for the figures which have been cited by my friend Maulvi Abdul Hamid Shah but even if the figures given by him are not fully correct this much can be said that there is a very respectable body of opinion which says that the interest should be limited to 12½ *per cent.* Therefore there seems to be no reason why Government should decide upon a higher percentage than has been fixed by the Select Committee: To take shelter under the opinions which have been expressed by certain Government officials will not be proper in the circumstances of the case. What is the actual reason why the percentage has been raised by the Select Committee? One reason has been suggested by Mr. Narendra Kumar Basu. He seemed to suggest that if the rate of interest be unduly lowered then probably no money would be available for the poor agriculturists at the time of their need. I for myself do not agree with him. So far as the money-lenders are concerned those who are aware of the state of affairs prevailing in the country-side will agree with me that most of them are capable of doing nothing else except counting and collecting interest. These people will continue to lend money even if the rate of interest be reduced to 12½ *per cent.* or even if it be reduced to a lower rate than that. They have no capacity to do any other thing. They will continue their money-lending business also because 12½ *per cent.* will be found quite profitable. The difficulty with them at present is not that the rate

of interest is too low but that the debtors who are mostly cultivators and peasants have no money to pay. It has been pointed out on the floor of this House that the money-lenders of the present day are willing to accept even 5 *per cent.*, as interest, or even the principal simply, if they can get back their money immediately because most of the money-lenders are empty of pocket, and have very little money to lend or even to defray their own ordinary household expenses. Therefore I do not think there will be any dearth of money for the poor debtors if the rates of interest are fixed at 12½ *per cent.* in the case of secured loans and, to 18¾ *per cent.* in the case of unsecured loans. But even if money was not available for the poor cultivators and other needy people and even if the money-lenders were driven out of their business on account of the rate of interest being too low I think it will not be a bad day for Bengal, because I think that if the people do not borrow any money whatsoever they will be better off than when they get money at too high a rate of interest and thereby ruin themselves. For the last 2 or 3 years what has been the condition in the country? The creditors have had no money to lend and even if they had they were not willing to lend under the prevailing circumstances. Therefore the cultivators and other people who generally borrow have not borrowed at all during these years; yet they are getting on somehow, and I think they will be better off if they find no money to borrow.

A few years ago when the price of jute was very high, I know of some incidents which seemed to be extraordinary at first sight; the debtors began to clear off their dues so much so that by the month of September almost all the debtors in my part of the country paid off their dues. There was a hubbub among the creditors that their business was going to be ruined as they thought that the cultivators would not borrow if they could sell their jute at such a price. But thanks to the borrowing propensity of our cultivators and thanks also to their improvidence and propensity of squandering their hard earned money, it was found very soon afterwards that there was a far greater rush for taking loans than was to be found previously. If the cultivators are indebted to a great extent at the present day it is on account of the borrowings they entered into in those days of prosperity. Therefore my considered opinion is that even if money is not available for borrowing that will not be a bad day for Bengal. I have no doubt, however, that there will always be money available even if the rate of interest be reduced to 12½ *per cent.*, in the case of secured loans and 18¾ *per cent.* in the case of unsecured loans. I also think that 18¾ *per cent.*, will be a very fair and equitable rate not only under the present circumstances but under all circumstances. I hope, therefore, that the House will agree to the rate of 18¾ *per cent.* in the case of unsecured loans. It has already been pointed out that all that this clause means is that it will simply

raise a presumption but will not limit the interest to any particular rate. The creditors will always be able to rebut the presumption and I believe that the resourceful money-lender will, in many cases, be able to rebut the presumption arising under the clause. The creditors will, therefore, not have much to lose if this amendment is accepted; on the other hand it will do real good to the dumb millions in the country.

The Hon'ble Mr. J. A. WOODHEAD: Legislation I would suggest should always take account of facts and, Sir, I would ask the House not to make this Bill an exception to that wholesome rule. We are not attempting by this Bill to create an Utopia where the rate of interest shall be what we individually think they should be, or as low as we would like them to be; the object of the Bill is not to fix what certain members may consider to be ideal rates of interest. Clause 3, with which we are now concerned, proposes this: If it is found that the interest charged exceeds certain rates (according to Sir William Prentice's amendment the rates will be 15 *per cent.* for secured loans and 25 *per cent.* for unsecured loans, the Court shall, until the contrary is proved, presume that the interest charged is excessive and the transaction harsh and unconscionable. The complaint has frequently been made that the Usurious Loans Act, 1918, has been a dead letter. One of the main objects of the present Bill is to make that Act a live Act and the object of inserting particular rates in clause 3 is to ensure that the legislation of 1918, will, instead of being largely a dead letter, fulfil the purpose for which it was enacted, the relief of debtors from rates of interest which are usurious. The effect of the clause—clause 3—is that if a loan bears interest above a certain rate, the presumption is that the rate of interest is usurious, and in fixing that rate, I suggest to the Council it is highly desirable that we should take account of what are the actual facts. The actual facts, so far as Government have been able to discover, are that the large majority of secured loans are made at a rate of interest considerably higher than 12½ *per cent.* and in many cases at a much higher rate; and in taking 15 *per cent.* Government have taken what appears to be the lowest rate of interest usually charged on such loans to cultivators. I would also remind the House that a secured loan does not necessarily mean a fully secured loan; the loan may be secured on a first, second or even a third mortgage. It is possible that a secured loan may not be well or fully secured, and yet it is a secured loan. This is another fact which must not be omitted from consideration. What we wish to do in this case is to fix rates above which it will be reasonable to presume that the rates are usurious; not rates which may be thought to be fair and proper in the case of debtors who can offer really good security.

After the presumption has been raised that the rate of interest is excessive, the Court under the Usurious Loans Act and also under the present Bill has the power to decide what in the particular transaction is a fair rate of interest, and if you read the last few lines of clause 3 of the Bill you will find that the main provisions of that clause are without prejudice to the powers of the Court under section 3 of the Usurious Loans Act to relieve the debtor of excessive interest where the Court is satisfied that the interest charged, though not exceeding 15 *per cent. per annum* or 25 *per cent. per annum* as the case may be, is excessive. The effect of this is that the Court has the power, although the rate of interest does not exceed 15 *per cent.*, to decide that the rate is excessive.

A lot has been said about the increase in the value of money. Mr. Jitendralal Bannerjee has expressed that increase in terms of paddy and has pointed out that a loan which before the slump was, expressed in terms of paddy, worth Rs. 100 is worth Rs. 300 to-day. That may be true, but there are other things besides paddy to be taken into consideration. Prices of some things are still comparatively high, for instance cloths, corrugated iron sheets, etc.—their prices have not fallen so disastrously, and measured by the prices of these articles, the present day value of a loan given some years ago does not exhibit an increase of the same magnitude.

Dr. NARESH CHANDRA SEN GUPTA: What about the general level of prices?

The Hon'ble Mr. J. A. WOODHEAD: But what we are concerned with is not the increase in the value of money, but the rate of interest, and we are concerned not only with past loans but also with future loans. Any argument based upon the increase in the value of money, certainly does not apply to future loans.

Babu JITENDRALAL BANNERJEE: Section 5 touches that; section 3 does not.

The Hon'ble Mr. J. A. WOODHEAD: Loans which are made to-day are made on the present value of money. What we are attempting to do—and I would again invite the attention of the Council to this—is to endeavour to include in the Bill rates of interest above which the Court shall presume, until the contrary is proved, that the interest charged is usurious. So far as Mr. Bannerjee's reference to section 5 is concerned, that only deals with compound interest. It says that "no money-lender shall recover by suit interest of any kind at a rate exceeding 10 *per cent. per annum* or with rest at intervals of less than 6 months in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest."

Sir, I have very little further to say, but I would mention one point and it is this: The money-lender is a part of the economic life of the province and particularly of the *mufassal*, and I feel sure it will be admitted that the cultivator cannot get on without borrowing money. Is there not the danger that if you fix what you think is the ideal rate, a rate lower than the actual rate, the money-lender may cease to lend? Is it advisable in these difficult times to restrict credit more than is absolutely essential?

Sir, I support Sir William Prentice's amendment.

Maulvi ABUL QUASEM: Sir, my friend Mr. Narendra Kumar Basu is an eminent lawyer, and he has with his usual eloquence moved his amendment, which goes one better than Sir William Prentice's as a reactionary amendment. He has been replied to by Mr. Jitendra-lal Bannerjee. He has put forward several arguments, but for a lay-man like myself it is very difficult to follow the subtleties of those arguments. Sir, I will confine myself to two things: He has laid stress on the fact that Khan Bahadur Azizul Haque, the member in charge of the Bill, was a member of some Banking Committee and that he had found that the rates of interest usually prevalent in the country were much higher—23, 24 or 30 *per cent.*, and so on—and that he has ignored facts. He has also said that Khan Bahadur Abdul Momin has put forward his arguments admitting that the facts were otherwise, and therefore Mr. Basu supposes that the House will be absolutely devoid of common sense if it ignores facts, and he had said that it is an insult to the intelligence of the House if it is expected to ignore facts. My argument is that this Bill has been introduced as there has been a great outcry against the usurious practices of money-lenders and because the rates of interest charged by them are very high. To remedy that evil this Bill has been introduced, and if we allow this state of things to continue, then what is the good of this legislation? Then, Sir, it has been said that money will not be available. Whether money will be available or not does not matter, because the question is that we cannot allow the poor ignorant masses of this country—cultivators and labourers—to be cheated and robbed by the subtle money-lenders, aided by their more subtle lawyers. Sir, I have heard with some surprise the statement made by Mr. Woodhead that after all money-lending is an important factor in our economy of life. But, Sir, I submit that his sympathy for the money-lender is uncalled for. Government always pretends, I use the word deliberately, that they stand for the poor people, for the agriculturists, for the oppressed, suppressed or depressed classes, but their solicitude for these classes does not go an inch beyond lip sympathy. Whenever their support is necessary, it goes to the capitalists, the usurious people and to people with influence behind them. However, that is a different matter. I want the Treasury

Benches to remember that the agriculturist is not only the earning member of the body politic, but he is our paymaster as well, at any rate he is the paymaster of the Government Benches, and therefore the earning member of the family should receive the highest consideration from the rest of the family. The earning member is the labourer, the actual agriculturist who tills the land, and unless he lives, the rest of the family will go down, and in view of this the rates that have been proposed with respect to secured loans are sufficiently high and there should be this check. But it seems to me that the Select Committee were wrong in putting the rate of interest for unsecured loans at 25 *per cent.*, and I support Maulvi Tamizuddin Khan's amendment in this respect.

One word more, Sir: Khan Bahadur Abdul Momin, in the course of his speech, remarked that the Member in charge of the Bill and his supporters were taking great risk in opposing the amendment of Sir William Prentice. I am not a seeker of favours of the Treasury Benches, but reading between the lines, I say that the risk is that if this motion is defeated and Government takes its stand against the Bill and the Bill is wrecked, then certainly it will be considered as a disgraceful act on the part of the Council.

Mr. C. R. DAIN: I move that the question be now put.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I belong to the profession of law like my friend Mr. Narendra Kumar Basu. But I read in my early childhood that lawyers sometimes make the worst appear the best reason, and I am afraid my friend Mr. Basu has done it. I do not say that he has deliberately done it, but I think that advocacy sometimes makes a man voice an opinion which is not based on sound principle and leads him to twist the meaning of a sentence with a view to creating a different impression. If my friend will kindly read the Report of the Banking Enquiry Committee to which he has referred, he will find the following passage occurring in it:—

"Restriction of interest must always tend to divert money available for investment from money-lending to other forms of business, and as the money available for loans in Bengal does not seem to be any too abundant at present, we think that we might leave the Usurious Loans Act to check abuses in case of unsecured loans. Secured loans, however, stand on a different footing, for when the risk of the loan being lost is very small, there are few forms of business which can compete with money-lending. The maximum rates should be fixed according to the special circumstances of each province, and if necessary for different parts of the same province, and for the different classes of borrowers, such as agriculturists and non-agriculturists."

I may at this stage also remind him of another passage, namely:—

"To give protection to these borrowers, we think it desirable to provide on the lines of section 10 of the English Money-lenders Act of 1927, that any rate in excess of 48 *per cent.* shall be presumed by the courts to be "excessive" within meaning of the Act, though a lower rate may also be found to be so."

Mr. NARENDRA KUMAR BASU: With that experience you have drafted your Bill?

Khan Bahadur Maulvi AZIZUL HAQUE: I am taking full responsibility as one who signed it with his wisdom and conscience within him. May I remind my friend that a Committee does not consist of one man, and if that were so the position might have been different. But having regard to the fact that the Committee consisted of only one representative of the agriculturist interest and the rest were representatives of commerce, town banks and other urban interests, it is a great credit to the representative of the agriculturists that unanimous recommendations on subjects relating to the interests of the agriculturists were achieved. My friend Mr. Basu had, perhaps, the spectacle of another committee in his mind where there were 19 dissentient reports out of 18 members of the Committee. I may say at this stage that this Banking Enquiry Committee after all recommended in the year 1930, on the basis of facts of 1929. I do not know whether in my friend's days the subject of economics was a subject in the curriculum of the University. But I think that prices are an important factor in all these considerations. After all, as has been said by Maulvi Tamizuddin Khan, the circumstances are different today. If my friend Mr. Basu refers to the Report of the Banking Enquiry Committee, he will find out why the higher figures were put in. We were at that stage bound by the circumstances prevailing in the country at the time, and also we were certainly nervous how the vested interests will take this matter. After all the writer of the report himself also felt the prevailing feelings in the country, and any personal opinion held by an individual member could not be incorporated in the report unless it was acceptable to all.

Now, Sir, I will give the reason why I drafted the Bill in its present form. I will at once frankly state that what prompted me to draft the Bill like this was the present composition of the Legislative Council. If the Council were composed of representatives of the people and if it were an institution in which democracy played its part, I would have certainly done what Mr. Basu wants me to do. But I find that the interest not of the people but of certain influential classes and communities are the chief concern of the members——

Mr. PRESIDENT: Order, order. I cannot allow you to make these remarks. It is a reflection on the House, and I think you had better leave that point altogether.

Khan Bahadur Maulvi AZIZUL HAQUE: I am leaving this point, but I think it is open to me to say that so far as we the representatives of the people are concerned, we do not represent the people in the sense that the people should be represented.

Mr. PRESIDENT: I do not think you can say that. I shall not allow you to hurt the dignity of the House.

Khan Bahadur Maulvi AZIZUL HAQUE: I will leave it at that. The reason why I did not put in——

Mr. PRESIDENT: Order, Order. Are you withdrawing those remarks? You said you would leave it at that. I want you to withdraw the expressions.

Khan Bahadur Maulvi AZIZUL HAQUE: If you think it is a reflection on the House I do withdraw it, but I never meant it as a reflection.

Mr. PRESIDENT: I accept your explanation, and I am glad you have withdrawn those unfortunate remarks.

Khan Bahadur Maulvi AZIZUL HAQUE: Very well, Sir, I withdraw it. I put in that figure because I knew that I would not be able otherwise to carry the House with me. I put them in so that I might carry the House with me with the consent even of the money-lending people.

About two years have since gone by, and in the meantime we have not only been able to gauge public opinion but also the general feeling in the country, and I admit that I have been disillusioned about the character of the Council, and I find that there are representatives who really represent the people. So I have changed my opinion deliberately. I have nothing more to say except that it was not fair to say that judicial officers did not use their discretion in a proper manner, and they are not able to discharge their duties in putting the Usurious Loans Act into operation. I may at once say that it is due to their work in connection with the Usurious Loans Act that illuminating facts could be placed before the Banking Enquiry Committee, and our thanks are due to the judicial officers for their help in this matter.

As regards the question as to whether it should be 12½ *per cent.* or 15 *per cent.*, I have already given my frank opinion why I have put in

12½ *per cent.* If the House think that that the rate should be lowered or enhanced, it is entirely a matter for them, and I shall accept the judgment of the House with absolute freedom of conscience.

Maulvi Tamizuddin Khan's motion was then put and lost.

Mr. Narendra Kumar Basu's motion was then put and lost.

Rai Bahadur Satish Chandra Mukherji's motion was then put and lost.

Sir William Prentice's motion being put a division was taken with the following result:—

AYES.

Armstrong, Mr. W. L.
Ashworth, Mr. G. G.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Burn, Mr. H. N.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman.
Chandhuri, Dr. Jogendra Chandra.
Dain, Mr. G. R.
Das, Rai Bahadur Satyendra Kumar.
Edgley, Mr. H. G. A.
Faroqui, the Hon'ble Nawab K. G. M.
Fawcus, Mr. L. R.
Ghose, Dr. Amulya Ratan.
Ghaznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Law, Mr. Surendra Nath.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Sub Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Philpot, Mr. H. C. V.
Podder, Mr. Ananda Mohan.
Prentice, the Hon'ble Sir William.
Rai Mahasai, Manindra Deb.
Ray, Babu Khettar Mohan.
Ray, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Satiswar Singh.
Ray, Mr. Sarat Kumar.
Ray, Mr. S. N.
Ray Choudhuri, Babu Nem Chandra.
Sahana, Babu Satya Kinkar.
Sarbar, Rai Sahib Rohati Mohan.
Sen, Mr. S. R.
Sen, Rai Bahadur Jogesh Chandra.
Steven, Mr. J. W. H.
Sumner, Mr. C. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Bannerjee, Mr. Jitendralal.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chowdhury, Maulvi Abdal Ghani.
Chawdhury, Haji Badi Ahmad.
Choudhury, Maulvi Nural Absar.
Ensafji, Maulvi Nur Rahman Khan.
Hakim, Maulvi Abdul.
Hoque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Hossain, Nawab Muchharraf, Khan Bahadur.
Hossain, Maulvi Mohammad.
Huq, Mr. A. K. Fazl-ul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Mamin, Khan Bahadur Muhammad Abdul.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemanta.
Samad, Maulvi Abdus.
Sen, Rai Sahib Akshoy Kumar.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

The Ayes being 53 and the Noes 31, the motion was carried.

Maulvi ABUL QUASEM: On a point of order, Sir. May I draw your attention to the fact that motion No. 44 has not been put before the House?

Mr. PRESIDENT: A part of that motion is covered by the decision already reached in connection with motion No. 46, but the other part still remains, so I will put only that portion before the House.

The motion that in clause 3, for the figures "25" in both the places where they occur, the figures "20" be substituted was then put and a division taken with the following result:—

AYES.

Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Banerji, Mr. P.
Bannerjee, Babu Jitendralal.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Choudhury, Maulvi Nurul Absar.
Eusufji, Maulvi Nur Rahman Khan.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Hussain, Maulvi Muhammad.
Huq, Mr. A. K. Fazl-ul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Mamin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mahanda Behary.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdar-.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Raut, Babu Haseni.
Samad, Maulvi Abdus.
Sarker, Rai Sahib Rohati Mahan.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Armstrong, Mr. W. L.
Ashworth, Mr. C. G.
Basarji, Rai Bahadur Keshab Chandra.
Birkmyre, Mr. H.
Bose, Mr. Narendra Kumar.
Bose, Mr. S. M.
Bottomley, Mr. J. M.
Burn, Mr. H. N.
Chaudhuri, Dr. Jogendra Chandra.
Dain, Mr. G. R.
Das, Rai Bahadur Satyendra Kumar.
Edgley, Mr. R. G. A.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur
Fawcus, Mr. L. R.
Ghaznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hitter, the Hon'ble Sir Provash Chunder.
Hitter, Mr. S. C.
Mittra, Babu Sarat Chandra.
Mukherji, Rai Bahadur Satis Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suh Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Philpot, Mr. H. C. V.
Poddar, Mr. Ananda Mohan.
Prentice, the Hon'ble Sir William.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Roy, the Hon'ble Sir Bijay Prasad Singh.
Ray, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Ray, Mr. S. N.
Ray Chaudhuri, Babu Nem Chandra.
Sahana, Babu Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Sen, Mr. B. R.
Sen, Rai Bahadur Jagesh Chandra.
Steven, Mr. J. W. H.
Sumner, Mr. C. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 31 and the Noes 50, the motion was lost.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, as the prayer time of the Muhammadan members is about to be reached in a few minutes, I think it would be better if you permit me to move my motion to-morrow.

Mr. PRESIDENT: Is it the wish of the House that we should adjourn now?

The Hon'ble Sir WILLIAM PRENTICE: We hoped to finish clause 4 to-night.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Our prayer time would be reached in a few minutes, so we shall have to adjourn now.

The Hon'ble Sir PROVASH CHUNDER MITTER: We are anxious to finish the clause to-night, but if the Moslem group insists on adjournment, we have no objection.

Adjournment.

The Council was then adjourned till 3 p.m., on Thursday, the 24th August, 1933, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 24th August, 1933, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 92 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Malaria in the Kishoreganj subdivision of the Mymensingh district.

***83. Babu SATISH CHANDRA RAY CHOWDHURY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government (Public Health) Department be pleased to state whether the Government issued any instructions to the Public Health Department in terms of their answer to starred question No. 174, dated the 30th March, 1932, namely, that "Government agree that in view of the severity of the epidemic in the unions of Sararchar and Pirijput (subdivision Kishoreganj, Mymensingh) a further survey of local conditions is desirable and will request the Director of Public Health to have this made"?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) whether the Public Health Department have carried out the instructions of the Government;

(*ii*) whether there is any report before the Government regarding the nature, extent and incidence of the malaria epidemic in the aforesaid unions and as regards the method of coping with the same;

(*iii*) whether it is a fact that since about May last malaria has again broken out in the most virulent shape in the aforesaid areas and the epidemic has further spread far to west, north and east, covering almost the entire population of 3 or 4 thanas, namely, Bajitpur, Katiadi, Pakundia, etc.;

(*iv*) whether in some of the areas mentioned in (*b*) (*iii*) there has been high death-rate following attack of the disease; and

(*v*) whether it is a fact that Dr. Sur, Assistant Director of Public Health and malaria expert attached to the Government of Bengal, visited some of the affected centres, namely, Sararchar, Katiadi, Mashna, Achmita, etc., recently in July last?

(*c*) If the answer to (*b*) (*v*) is in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) whether he has submitted any report to the Director of Public Health or to the Government, based on his inspection of the affected localities;

(*ii*) if so, whether a copy of the said report will be laid on the table;

(*iii*) what action the Government contemplate taking on the said report of Dr. Sur?

(*d*) Are the Government considering the desirability of making an experiment in selected areas in Mymensingh, similar to the one which is being tried in Burdwan?

(*e*) Is the Hon'ble Minister aware that the people concerned are willing to co-operate for the success of the experiment referred to in (*d*)?

MINISTER in charge of LOCAL SELF-GOVERNMENT (PUBLIC HEALTH) DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) and (*b*) (*i*) A further survey of the affected area has been undertaken by the Public Health Department and a report of the results has recently been received by Government.

(*ii*) to (*v*) Yes.

(*c*) (*i*) Yes.

(*ii*) Government consider that it would be premature to place the report on the table until the suggestions in it have been fully examined.

(*iii*) Government have decided that a further special grant should be made for quinine for this and other newly affected districts.

(*d*) No. There would be no purpose in duplicating an experiment.

(*e*) Yes.

Prostitutes' quarters near Kurigram Railway Station.

*84. **Kazi EMDADUL HOQUE:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) whether it is a fact that the Kurigram union board and the local authorities contemplate removing the prostitute quarters to a thickly populated bustee with a Madrasah and a mosque adjacent to the south-south-east of the Kurigram Railway Station; and

(*ii*) whether the Government have received a petition on this matter from the villagers likely to be affected by the fresh location of the prostitute quarters?

(*b*) If the answer to (*a*) is in the affirmative, what steps, if any, are the Government taking in the matter?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) (*i*) It is understood that the prostitutes' quarters is to be moved, but neither the union board nor the other local authorities are responsible.

(*ii*) No.

(*b*) Does not arise.

Kazi EMDADUL HOQUE: Who is responsible for the removal of prostitutes near the mosque and the Madrasah?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: They are not near the mosque.

Kazi EMDADUL HOQUE: Has the Hon'ble Minister ascertained the fact that it is not near the mosque?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is ~~our~~ information.

Kazi EMDADUL HOQUE: Who is responsible for their removal?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The local people.

Minority community in municipality.

*85. **Babu AMULYADHAN RAY:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to refer to his speech of the 12th August, 1932, as printed on page 279 of the Proceedings (Vol. XXXIX, No. 2) as well as to his speech of the 13th March, 1933, as printed on page 55 of the Proceedings (Vol. XLI, No. 2), and to state whether the depressed classes have been declared a minority community in any municipality of Bengal?

(*b*) Will the Hon'ble Minister be pleased to refer to his speech of the 13th March, 1933, printed on page 56 of the Proceedings (Vol. XLI, No. 2), and to state whether it is a fact that the District Officer of Khulna reported that the depressed classes should be declared a minority community within the Khulna municipality?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state whether they have been declared a minority community?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) No.

(*b*) The District Officer reported that no figures were available to show what proportion of the Hindus of Khulna town belonged to the depressed classes: but added that in his opinion seats might be reserved for them.

(*c*) They were not declared a minority community.

Babu AMULYADHAN RAY: Will the Hon'ble Minister be pleased to state whether he promised to the effect that the interest of the depressed classes should be secured? It will be found on page 55 of the Council Proceedings, Volume 39, No. 2.

Mr. PRESIDENT: But, what is your question?

Babu AMULYADHAN RAY: I am asking the Hon'ble Minister whether he promised that the interest of the depressed classes should be secured by nomination and, if that form was not suitable, to declare the depressed classes a minority community.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The hon'ble member seems to remember my promise better than I do, because he has specified the particular proceedings in which it is contained.

Babu AMULYADHAN RAY: I ask whether that promise has been kept.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The promise will be kept when the occasion arises.

Babu AMULYADHAN RAY: But when? Now that the municipal nominations have been made—

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Where the number of depressed classes has been obtained, seats have been reserved for them; where it was not available, Government could not do it.

Babu AMULYADHAN RAY: Is the number of depressed classes not available from any of the municipalities?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice of that.

Mr. SHANTI SHEKHARESWAR RAY: Has any member of the depressed classes been nominated to the Corporation of Calcutta?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It was not necessary, because there is one elected member belonging to the depressed classes.

Murshidabad municipality.

*86. **Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur:** Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing the present figures of Hindus and Muhammadans separately, as in the following items:—

(*i*) the entire population of the Murshidabad municipality;

(*ii*) the total population of wards Nos. I, II and III respectively;

(*iii*) the voting strength under the Bengal Municipal Act in each of the said wards; and

(*iv*) the income derived from taxation in each of the said wards?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*i*) According to the last census—

Hindus—5,343.

Muhammadans—4,122.

Total—9,483.

(*ii*) Ward No. I—6,825.

Ward No. II—1,102.

Ward No. III—1,556.

Separate figures for Hindus and Muhammadans are not available.

(*iii*) Ward No. I—Hindus—816. Muhammadans—706.

Ward No. II—Hindus—142. Muhammadans—108.

Ward No. III—Hindus—127. Muhammadans—90.

(*iv*) Ward No. I—Rs. 9,614-6 annually.

Ward No. II—Rs. 2,106-6 annually.

Ward No. III—Rs. 2,821-2 annually.

Separate figures for Hindus and Muhammadans are not available.

Rai Bahadur KESHAB CHANDRA BANERJI: What is the basis of the Hon'ble Minister's information that separate figures are not available?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The municipal assessment list, I believe.

Rai Bahadur KESHAB CHANDRA BANERJI: Is it not a fact that in the municipalities, lists can be prepared, if asked for, regarding the number of Hindu and Muhammadan voters?

Babu JITENDRALAL BANNERJEE: Are not these figures available from the municipalities?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes.

Babu JITENDRALAL BANNERJEE: Then, what is the good of wasting the time of the Council in putting such questions?

Mr. PRESIDENT: Order, order. When a question is allowed, it has got to be answered in some shape or other.

Rai Bahadur KESHAB CHANDRA BANERJI: My question has not been answered yet.

Mr. PRESIDENT: Will you repeat your question?

Rai Bahadur KESHAB CHANDRA BANERJI: I want to know whether or not enquiries were made from the Chairman of the Murshidabad Municipality about the separate figures showing the number of Hindu and Muhammadan voters.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It would be unreasonable to expect the municipality to incur so much time and expenditure in order to supply these figures. They have got better work to do.

Rai Bahadur KESHAB CHANDRA BANERJI: Then, how is the Hon'ble Minister to ascertain the facts?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: As a matter of fact, enquiries were made of the municipal authorities and the figures given here were supplied to Government by the municipal authorities.

Noabad taluks.

***87. Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) how many Noabad *taluks* were sold in revenue sale from the 7th January, 1933, to the 7th July, 1933, in Chittagong; and

(*ii*) how many such *taluks* had to be purchased by the Government for want of bidders?

(*b*) Will the Hon'ble Member be pleased to state whether the Government had ever to purchase so many *taluks* within a course of six months during the last twenty years for the reasons set out in clause (*ii*)?

(*c*) If the answer to (*b*) is in the negative, what are the grounds leading to the present state of affairs in the current year?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) 264. Of these 72 were *taluks* which had been sold before 7th January, 1933, but were resold during the period referred to for default in payment of the purchase money.

(*ii*) Out of the above 264 *taluks* Government purchased 28 at original sales and 41 at resales.

(*b*) No.

(*c*) It is not possible to state definitely without enquiry as regards individual cases, but it is probable that the *taluks* in question, especially those which were resold, had some special defects such as diluvion. In any case the number purchased by Government is but a small percentage of the total number of over 35,000 Noabad *taluks*.

Khan Bahadur MUHAMMAD ABDUL MOMIN: With reference to (*b*), do not the facts indicate that the *taluks* have been overassessed and for that reason they are not profitable?

The Hon'ble Sir PROVASH CHUNDER MITTER: That is not my inference nor the inference of the local officers.

Haji Badi Ahmed Chowdhury put a question in Bengali.

The Hon'ble Sir PROVASH CHUNDER MITTER: Considering that there are 35,000 Noabad *taluks* and only a few have been sold, I do not think that the hon'ble member's conclusion is a right one.

Rai Bahadur KESHAB CHANDRA BANERJI: On a point of order, Sir. When a question is put in Bengali, should not the answer be given in Bengali?

Mr. PRESIDENT: It is unnecessary, unless the questioner cannot understand. Did you fully understand the answer, Haji Sahib?

Haji BADI AHMED CHOWDHURY: I cannot fully understand.

The Hon'ble Sir PROVASH CHUNDER MITTER: I am quite willing to speak in Bengali, but I thought that the language of the Council is English.

Mr. PRESIDENT: It is so, and I do not insist on your speaking in Bengali. I will leave it to you.

(The Hon'ble Member then proceeded to answer in Bengali.)

Mr. PRESIDENT: In order to conform to our rules, Sir Provash, you may reply in English and then you may translate your answers into Bengali, if you so desire.

The Hon'ble Sir PROVASH CHUNDER MITTER: Very well, Sir. I do not see anything in to-day's question paper which justifies that, unless the hon'ble member is referring to something else.

Haji Badi Ahmed Chowdhury put another question in Bengali.

The Hon'ble Sir PROVASH CHUNDER MITTER: I have already stated on another occasion that after a full enquiry, we are satisfied that the implication of the question is not correct.

Haji Badi Ahmed Chowdhury put another question in Bengali.

The Hon'ble Sir PROVASH CHUNDER MITTER: After enquiry, we are satisfied that no general orders are necessary; but as I had already said yesterday, if any specific case be brought to the notice of the local officers, it would be enquired into.

Estate of Bashatti pargana in Rangpur.

*88. **Kazi EMDADUL HOQUE:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether it is a fact that the estate of the *zamindars* of the Bashatti *pargana* in Rangpur has been attached under section 99 of the Cess Act?

(*b*) If the answer to (*a*) is in the affirmative, what was the amount of the cess due from the *zamindars* for which the estate has been attached?

(*c*) Is the Hon'ble Member aware that the *zamindars* are absentee *zamindars* and that there was lack of supervision on their part for the accumulation of cess arrears due from them?

(*d*) What is the total collection of the *zamindari* and what is the revenue payable to Government per year?

(*e*) Whether any steps were taken to realise the arrears by attachments of the movables or immovables of the *zamindars*?

(*f*) What are the reasons for not putting to sale the estate of the defaulting *zamindars* for the realisation of all dues by the *zamindars*?

(*g*) Is it a fact that the *zamindars* realised rents from the tenants for 4 years immediately preceding the attachment of the estate?

(*h*) Have the Government received a petition from the tenants of the Bashatti *pargana* requesting the Government to proceed against the defaulting *zamindars* at the first instance?

(*i*) If the answer to (*h*) is in the affirmative, what action, if any, is being taken on that petition?

(*j*) Are the Government considering the desirability of allowing the tenants time till Kartic next and issuing necessary orders for withholding the issue of certificates?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) Yes.

(*b*) Rupees 9,272-6 including costs.

(*c*) No.

(*d*) Annual demand of the *zamindari* is Rs. 29,854 (including cess) and annual revenue payable is Rs. 3,943-7.

(*e*) Yes.

(*f*) Because the Collector was of opinion that action under section 99 would be suitable in this case.

(*g*) No. In many cases there were outstanding arrears for 3 or 4 years.

(*h*) Yes.

(*i*) The petition is under the consideration of the Board of Revenue.

(*j*) (*a*) The Collector has allowed time till the jute harvest. He will decide in which cases further time should be allowed.

(*b*) No. Only eight certificates have been issued hitherto.

Kazi EMDADUL HOQUE: With reference to (*e*), what movables and immovables of the *zemindars* were attached?

The Hon'ble Sir PROVASH CHUNDER MITTER: I want notice.

Kazi EMDADUL HOQUE: What were the consequences of that attachment?

The Hon'ble Sir PROVASH CHUNDER MITTER: I cannot remember. I am not expected to know details of all the certificate cases of the province. If any specific information is required on some specific point, I shall be pleased to get the information.

Kazi EMDADUL HOQUE: What amount was recovered?

The Hon'ble Sir PROVASH CHUNDER MITTER: I cannot say without specific enquiries.

X'Ray treatment at the Mitford Hospital, Dacca.

***89. Rai Bahadur SATYENDRA KUMAR DAS:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government (Medical) Department be pleased to state whether it is a fact that Major-General Coppinger, the then Surgeon-General to the Government of Bengal, gave an assurance to a deputation that waited on him at Dacca, in July, 1932, that the charges for X'ray treatment at the Mitford Hospital, Dacca, would be considerably lowered?

(*b*) If the answer to (*a*) is in the affirmative, has the said assurance been given effect to by Government? If not, why not?

(*c*) Is the Hon'ble Minister aware that the charges for X'ray treatment at the Mitford Hospital, Dacca, are very high for the middle-class people to meet and that there is a great demand for lowering the same?

(*d*) Are the Government considering the desirability of lowering the charges to such an extent as would be within the paying capacity of the public in general?

MINISTER in charge of LOCAL SELF-GOVERNMENT (MEDICAL) DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) It is understood that General Coppinger merely undertook to examine the question and to submit proposals to Government.

(*b*) Does not arise.

(*c*) and (*d*) No. Examination shows that generally they are not high. Proposals for modifying them in certain respects are, however, under consideration.

Maulvi SYED MAJID BAKSH: What is the amount of cost for x'ray examination?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I want notice.

Rai Bahadur KESHAB CHANDRA BANERJI: Did Major-General Coppinger take into consideration the fact that there has been a steady decline in the number of patients for x'ray examination?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It might be. That was due to the general economic depression.

Babu SATISH CHANDRA RAY CHOWDHURY: Has any report been submitted to the Surgeon-General recommending a reduction of fees?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes.

Rai Bahadur KESHAB CHANDRA BANERJI: What is the percentage of reduction in proportion?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The matter is yet under consideration.

Rai Bahadur KESHAB CHANDRA BANERJI: In view of the urgency of the matter and having regard to the fact that the question has been pending for a very long time, can we expect that it would be expedited?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I cannot make any promise, but certainly there will not be any undue delay.

Rai Bahadur SATYENDRA KUMAR DAS: With reference to (*c*) and (*d*), is it a fact that the Mitford Hospital Governors have recommended a 15 *per cent.* reduction in their meeting held in July last. If so, are the Government going to give effect to it?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The whole matter is under consideration now.

Irrigation officers in the Cossye Division and Midnapore district.

*90. **Maulvi NUR RAHMAN KHAN EUSUFJI:** (*a*) Will the Hon'ble Member in charge of the Irrigation Department be pleased to state how many Irrigation officers of different ranks are there in the Hijili and Cossye Divisions, and Midnapore district?

(*b*) How many of them are Muhammadans and how many of them are Hindus?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim Chuznavi): (*a*) There are no Irrigation officers in the Hijili Division, which is a Public Works Department Division.

Irrigation officers in the Cossye Division and in the district of Midnapore including Hijili area are:—

Executive Engineer	...	1
Assistant Executive Engineer	...	1
Assistant Engineers	...	3
Overseers (permanent and temporary)	...	18
Lower Subordinates	...	7
Zilladars	...	4
Total	..	34

(*b*) Of these 5 are Muhammadans and 29 Hindus.

Khan Bahadur Maulvi AZIZUL HAQUE: Are all these Muhammadan officers in the lower grade?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI: No.

Cost of additional police force posted at Midnapore.

*91. **Mr. R. MAITI:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state—

(*i*) what was the estimated amount for the cost of the additional police force ordered to be posted in the town of Midnapore from July, 1932, to June, 1933;

(*ii*) what were the detailed items on which such estimate was prepared; and

(*iii*) what was the amount realised from the people of the Midnapore town?

(*b*) Is it a fact that the services of the said force were from time to time utilised for other purposes outside the town?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state whether all costs for their outside employment was deducted from the estimated amount realised from the people of the Midnapore town?

(*d*) Is it a fact that first of all two lists of assessment—one special and one general—were published for the information of the assessees with a notice fixing the dates on which payments were to have been made, and that again after a few days the said lists were cancelled and fresh ones issued, increasing the original amount of assessment in many cases and transferring the same names from the general to the special list?

(*e*) Is it a fact that after the people had paid their taxes according to the second list some of them were re-assessed and made to pay twice?

(*f*) Is it a fact that fresh demand notices were served upon some more people whose names were neither in the first nor in the second list of assessment?

(*g*) If the answers to (*d*), (*e*) and (*f*) are in the affirmative, what were the special circumstances justifying such changes?

(*h*) On what principle were the special and the general lists of assessment prepared?

(*i*) Will the Hon'ble Member be pleased to state whether any person or persons were exempted from payment?

(*j*) If the answer to (*i*) is in the affirmative, will the Hon'ble Member be pleased to state whether the principle as laid down in reply to a question in this Council some time ago, namely, that those who have actively helped the Government will be exempted from payment, was strictly followed in their cases?

(*k*) Is it a fact that the merchants of the town were heavily taxed in the original list but their taxes were reduced by a considerable amount in the second list I.?

(*l*) Is the Hon'ble Member aware that the taxes of the merchants were reduced only after they had agreed to form an association with the District Magistrate as its President?

(*m*) What was the main object of the said association?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*) Rupees 67,054.

(*ii*) All payments made or liabilities incurred on account of an additional police posted under section 15 of Act V of 1861 are recoverable from the inhabitants of the proclaimed area. The cost is generally calculated according to the scale prescribed in rule 1316 of the Bengal Police Regulations, Volume I.

(*ii*) Rupees 58,27[illegible] up to the [illegible]nd of July, 1933.

(*b*) No.

(*c*) Does not arise.

(*d*), (*g*) and (*h*) No lists marked general or special were published. In the majority of cases the annual municipal tax was taken as the amount to be assessed. In some cases a higher assessment was made in consideration of the financial circumstances of the assessees. The assessment roll originally drawn up was revised after objections filed by the assessees had been dealt with.

(*e*), (*g*) and (*h*) In some cases the assessees were required to pay the difference between the sum originally assessed and recovered and the sum assessed after revision of the assessment roll.

(*f*), (*g*) and (*h*) Yes. A number of assessable persons had originally escaped assessment owing to the assessment list being based on the Municipal Holdings Register.

(*i*) and (*j*) Yes.

(*k*) The merchants were assessed in accordance with their income. In some cases the amounts were revised after the hearing of objections filed by the assessees.

(*l*) The allegation is unfounded. The District Magistrate is not the President of the merchants' association. The formation of the association had nothing to do with the reduction of the assessment.

(*m*) Protection of trade in Midnapore from political interference.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Process-servers at Chittagong.

31. Maulvi SYED MAJID BAKSH: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) whether it is a fact that half of the total number of process-servers at Chittagong Sadar are kept at Sadar for performing merely guard duties; and

(*ii*) whether it is a fact that for want of process-serving hands (process-servers being engaged in guard duties there) a good number of processes have accumulated at the local Nazarat and the hearing of the suits is being adjourned for non-service of the processes?

(*b*) Will the Hon'ble Member be pleased to state how many rent suits have been filed on the last Tamadi-day at Chittagong and how many have been disposed of up till now?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir William Prentice): (*a*) (*i*) and (*ii*) No.

(*b*) 4,970 rent suits were instituted on the last Tamadi-day, of which 2,188 had been disposed of by the 15th August last.

Krishtapur new cut canal.

32. Mr. A. F. M. ABDUR-RAHMAN: (*a*) Is the Hon'ble Member in charge of Irrigation Department aware of the suffering of the villages of Guni, Jatragachi, Soollonguri, Hatiara, Nawabpur, Rikjuni, Dharasha, Mamudpur and thirty other adjoining villages within the jurisdiction of Rajarhat thana in the district of the 24-Parganas, by the excavation of Krishtapur new cut canal?

(*b*) Will the Hon'ble Member be pleased to state whether it is a fact that by the excavation of this new canal the natural drains of these villages have been closed, thereby causing damages to the crops?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state what steps, if any, are being taken in the matter?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI: (*a*) The Hon'ble Member in charge of the Irrigation Department has inspected the flooded areas and is aware of the conditions in the villages named.

(*b*) The Krishtapur canal was designed and excavated to provide a navigable communication between the rivers Hooghly and Kulti. It intercepts the drainage channels of the villages mentioned, but it is intended to receive and carry off the discharge from the same. In the current year, owing to exceptional rainfall and flooding, and more specially to the inflow of water into it through illegal cuts from the flooded area on the west and south of the canal, the water-level in the canal has remained high and so drainage has been impeded. The floods have caused damage to the crops.

(*c*) All possible remedial steps have been investigated and taken, the drainage sluices at both ends of the canal system are being operated, and, in addition, extra facilities for drainage at Kulti are being arranged.

Maulvi TAMIZUDDIN KHAN: Is it not a fact that the areas in question have not only been inundated in the current year, but also for the last three years?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI: Yes, we had floods before.

Maulvi TAMIZUDDIN KHAN: Cannot the situation be relieved by opening one of the lock-gates of the Bistupur Khal?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI: An attempt was made right at the beginning to open not only one but both the gates; but it was found quite impossible to open the Chitpur lock-gate. Thereafter, a determined attempt was made to open the Kulti lock-gate. But after examination it was found that it was not possible to do so.

Maulvi TAMIZUDDIN KHAN: What steps are being taken to prevent a repetition of these conditions in future?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI: I may explain for the benefit of the members of this House that as soon as information reached me, I myself went there accompanied by the Chief Engineer, and we found that the causes that were really responsible for the state of affairs were not due to the water rising in the canal, but were chiefly due to the illegal breaches made by persons on the other side of the canal. Therefore, steps were taken to stop these breaches. Thereafter, as I have already stated, we tried to open the gates, but it was found to be impossible to do so. We did the next best things, *viz.*, we opened all the sluices and additional box sluices were also provided. By this time the breaches on the other side have been repaired. For the future we are going to give this matter our best consideration in order to find out what steps can be taken to prevent a recurrence of such a state of affairs.

Dr. NARESH CHANDRA SEN GUPTA: Is it not a fact that the mischief has been chiefly created in recent years by reason of the raising of the bed of the canal in order to make it navigable so that the water level is kept at a considerable height?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM CHUZNAVI: No.

Dr. NARESH CHANDRA SEN GUPTA: With regard to the remedial steps, is the dredging of the bed of the canal so as to reduce the water level under consideration?

The Hon'ble Alhadj Nawab Bahadur Sir ABDELKERIM GHUZNAVI: The whole question as to what steps are to be taken is under consideration, including the suggestion mentioned by the questioner.

Commissioners of the Howrah municipality.

33. Kazi EMDADUL HOQUE: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) the present number of nominated commissioners of the Howrah municipality;

(*ii*) how many of them are—

(*1*) Hindus,

(*2*) Muhammadans, and

(*3*) Europeans?

(*b*) Has the attention of the Hon'ble Minister been drawn to the fact that no Mussalman has been nominated as a commissioner of the said municipality? If so, why?

(*c*) Are the Government considering the desirability of nominating a Mussalman at an early date?

(*d*) Is the Hon'ble Minister aware that the claims of the Mussalmans residing in mill areas go unrepresented?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*) 10.

(*ii*) (*1*) One.

(*2*) Two.

(*3*) Three.

(*b*) and (*c*) Nominations to the new municipal board are under the consideration of Government; and until these have been settled, Government are not prepared to furnish information regarding them.

(*d*) No. By notification No. 107M., dated 9th January, 1933, five elected seats have been reserved for the Muhammadans.

Fees paid to lawyers in the Appellate Side of the High Court.

34. Mr. A. K. FAZL-UL HUQ: Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing for the period from April, 1931, to December, 1932, the total cost incurred by Government in payment of fees to lawyers in the Appellate Side of the High Court under the following heads:—

(*1*) fees paid to the Advocate-General,

(*2*) fees paid to the Standing Counsel,

(*3*) fees and salary paid to the Deputy Legal Remembrancer,

(*4*) fees paid to lawyers not being Law Officers of the Crown?

The Hon'ble Sir WILLIAM PRENTICE: (*1*) to (*4*) A statement is laid on the table.

Statement referred to in the reply to unstarred question No. 34, showing for the period from April, 1931, to December, 1932, the total cost incurred by Government in payment of fees to lawyers in the Appellate Side of the High Court under the heads mentioned below.

Fees paid to the Advocate-General—Rs. 5,015.

Fees paid to the Standing Counsel—Rs. 6,012.

Fees and salary paid to the Deputy Legal Remembrancer—No fees were paid, he being a wholetime officer. The salary paid to him was Rs. 2,200 a month.

Fees paid to lawyers not being Law Officers of the Crown—Rs. 20,862-6.

Process-fees.

35. Maulvi ABDUL GHANI CHOWDHURY: Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) the amounts realized as process-fees in Bengal civil courts during the years 1931 and 1932;

(*ii*) the amounts paid to the process-servers of Bengal as pay during the years 1931 and 1932; and

(*iii*) the amount required to give effect to the revised scheme of granting pension to the process-servers (as admitted by the Secretary of the Judicial Department in his speech in the Bengal Legislative Council on the 29th July, 1931)?

The Hon'ble Sir WILLIAM PRENTICE: (*i*) Rupees 20,84,072 in 1931. Rupees 22,10,594 in 1932.

(*ii*) Rupees 9,86,789 in 1931. Rupees 9,43,215 in 1932.

(*iii*) No estimate has been prepared.

Union board president of the Pabna district.

36. Babu SUK LAL NAG: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether any action has been taken on the report submitted by Mr. Ali Taib, Subdivisional Officer, Pabna, to the District Magistrate on the 20th July, 1929, regarding the conduct of a union board president of the district?

(*b*) Have the Government taken any step to investigate into the allegations made by the Subdivisional Officer against the said president?

(*c*) If no action has been taken, are the Government considering the desirability of taking action immediately?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) The president was removed by a resolution of the district board which, being based only on the bare recommendation of the union board, was set aside by the Commissioner as not in accordance with the law. Meanwhile, there was a fresh election to the union board and the matter went no further.

(*b*) and (*c*) No.

Babu SUK LAL NAG: With reference to (*b*), may I enquire why have not Government taken any steps in regard to the allegations made by the Subdivisional Officer against the said President?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It was not necessary, because the election took place soon after.

Realisation of interest from the tenants of the Court of Wards estates for arrears of rent.

37. Babu SUK LAL NAG: (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that an interest of 7 annas per rupee is realised from the tenants of the Court of Wards estates for their arrears of rent paid in the year of limitation?

(*b*) Will the Hon'ble Member be pleased to state whether this practice of realising interest has had the approval of Government?

(*c*) Are the Government aware of a feeling that exists that the rate is unfair and exorbitant?

(*d*) Is the Hon'ble Member aware that the practice has been causing hardships to the people in these days of severe economic distress?

(*e*) Are the Government considering the desirability of reducing the rate of interest?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) Government are not aware whether interest at 7 annas per rupee is being generally realised in such cases.

(*b*) Government approval is not necessary as the realisation of interest on arrears at 12½ *per cent. per annum* is authorised by law.

(*c*) and (*d*) No.

(*e*) The Court of Wards has already authorised Collectors to remit interest on arrears.

Maulvi TAMIZUDDIN KHAN: With reference to (*a*), has any enquiry been made in the matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: I would refer the hon'ble member to answer (*e*). I may mention that if the hon'ble member will calculate, he will see that for three years and nine months' default the interest is more than 7 annas in the rupee on the rate allowed under the Bengal Tenancy Act.

Maulvi TAMIZUDDIN KHAN: Are the Government aware that this rate of interest is realised at least in some cases, though it may not be charged generally?

The Hon'ble Sir PROVASH CHUNDER MITTER: The answer (*e*) ought to satisfy my hon'ble friend.

Babu SUK LAL NAG: With reference to (*a*), are all the Court of Wards estates managed by Government?

The Hon'ble Sir PROVASH CHUNDER MITTER: The Court of Wards estates are not managed by Government, but by the Court of Wards.

Khan Bahadur Maulvi AZIZUL HAQUE: Is the authority given to the Collector to realise interest and arrears to apply only in the case of an individual tenant praying for remission, or will it have a general application in the *mahals*?

The Hon'ble Sir PROVASH CHUNDER MITTER: That is left to the discretion of the Collector.

Khan Bahadur Maulvi AZIZUL HAQUE: Is the Hon'ble Member aware that if it applies only to individual applications, there is no likelihood of any remission whatever?

The Hon'ble Sir PROVASH CHUNDER MITTER: I am not aware of that. On the other hand, I stressed the point of individual remission in another case, because a certain gentleman was repeatedly circularising and inflaming the agricultural tenants. I never said in answer to this question that individual application only would be attended to.

Professor of Surgery in the Medical College Hospital.

38. Babu PROFULLA KUMAR GUHA: (*a*) Will the Hon'ble Minister in charge of the Medical Department be pleased to state whether the posts of Anæsthetists to the Professor of Surgery, Clinical Surgery and Midwifery in the Medical College Hospital, are being held by the present incumbents for the last 10 years?

(*b*) Is the Hon'ble Minister aware that other similar posts are changed practically every year?

(*c*) Is it a fact—

(*i*) that appointment of Anæsthetists of other departments was recommended by their Professors; but

(*ii*) that they were not appointed?

(*d*) Will the Hon'ble Minister be pleased to state the reasons of this differential treatment?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) and (*b*) No.

(*c*) (*i*) There are only two other Professors who could be meant. Of these, the Second Professor of Midwifery shares the services of the Anæsthetist with the First Professor and the Professor of Ophthalmic Surgery, working chiefly with local Anæsthetics, has no Anæsthetist.

(*c*) (*ii*) and (*d*) Do not arise.

Process-fees.

38. Maulvi ABDUL HAMID SHAH: Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) the amounts realised as process-fees in Bengal civil courts during the years 1931 and 1932;

(*ii*) the amounts paid to the process-servers of Bengal as pay during the years 1931 and 1932; and

(*iii*) the amount required to give effect to the revised scheme of granting pension to the process-servers (as admitted by the Secretary of the Judicial Department in his speech in the Bengal Legislative Council on the 29th July, 1931)?

The Hon'ble Sir WILLIAM PRENTICE: (*i*) to (*iii*) The member is referred to the answers given to the same questions asked by Maulvi Abdul Ghani Chowdhury.

LEGISLATIVE BUSINESS

NON-OFFICIAL MEMBERS' BILL.

The Bengal Money-lenders Bill, 1933.

Clause. 3.

The discussion on the Bengal Money-lenders Bill was resumed.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I beg to move that in clause 3, in lines 6 and 7, the words "or that there is a stipulation for rests at intervals of less than six months" be omitted.

In moving this amendment, I shall try to explain briefly the reasons why I want these words to be deleted. The member in charge of the Bill will, perhaps, be somewhat piqued at this attempt of mine to do away with a provision which he considers to be very important from the borrower's point of view. I wish to make it perfectly clear at the outset that I am a borrower myself and not a money-lender, who has come in for considerable criticism at the hands of some of us here —particularly Babu Jitendralal Bannerjee, who characterised money-lenders as veritable Shylocks——

Babu JITENDRALAL BANNERJEE: I didn't.

Rai Bahadur KESHAB CHANDRA BANERJI: At least that is the impression left on my mind by his speech.

Babu JITENDRALAL BANNERJEE: That is a very wrong impression.

Rai Bahadur KESHAB CHANDRA BANERJI: I am sure Mr. Bannerjee used the word "Shylock" more than once. However, it is not right to say that all money-lenders are exacting. Sometimes we have got to lend money to agriculturists in order to enable them to pay up their rents and to buy seeds. I appeal to the member in charge as well as to the Hon'ble Sir William Prentice to consider for a moment what would be the effect of such legislation which, if carried, would cease to be attractive to money-lenders. A money-lender does not go about with money, asking people to take loans; but the borrower, driven by sheer necessity, approaches the money-lender to help him in times of distress. If a stringent legislation such as this is passed, then the effect will be that credit, which is the basis of modern social economy, will disappear. It will, perhaps be admitted on all hands—at any rate, it is known to everybody—that even well-to-do people have sometimes to take short-term loans to meet urgent or unforeseen requirements. In the case of rural people in general, whom the Bill is intended to protect, credit is a daily necessity. It will not, therefore, do to make loans more difficult to incur by imposing stringent conditions upon the money-lenders.

Then, Sir, the words as they stand in the Bill run thus:—

"Where in any suit in respect of any money lent by a money-lender after the commencement of the Usurious Loans Act, 1918, it is found that the interest charged exceeds the rate of 12½ *per cent. per annum* in the case of a secured loan or 25 *per cent. per annum* in the case of an unsecured loan or that there is a stipulation for rests at intervals of less than six months, the Court shall, until the contrary is proved, presume, etc." That is the wording of the clause, and if it is accepted in its present form, the Court will have no other option in the matter than to be guided by the terms of this provision. Supposing the period for rests is less than six months—say three months—and the rate of interest is 2 or 3 *per cent.*, in that case the Court shall have no alternative but to presume for the purposes of section 3 of the Usurious Loans Act that the interest is excessive, harsh, and unconscionable. I may also point out in this connection that, instead of helping the borrower in any way, it will put a premium upon fraudulent transactions. I will make my point more clear. If the money lender finds that the terms are very stringent, he will naturally prevail upon the borrower to mention in the document a much larger amount than he is prepared to

lend to the debtor, *e.g.*, if the borrower wants Rs. 300, the money-lender may ask him to put down Rs. 600 in the document, and the result will be that the Court will have no option but to decree the entire amount of Rs. 600. That is why I say that instead of this provision being of any help to the borrower, it will give rise to bogus and fraudulent transactions for the prevention of which no provision has been made in the Bill. So, instead of being of any help to the borrower, it will indirectly operate as a check upon borrowing.

Sir, as I have already said in referring to fraudulent transactions, if the Courts are not allowed to go behind the written contract in order to determine the facts as regards the amount actually lent, the result will be greatly increased litigation, and the honest money-lender will be penalised. For these reasons, Sir, I commend my amendment to the acceptance of the House.

Mr. ANANDA MOHAN PODDAR: Sir, the provision regarding the rest of six months will upset the business customs in the province. This Bill when passed into law will be applicable to trade centres, and though the object of the Bill is to protect the agriculturists, it will affect the traders adversely. We find no safeguard for the trades people in the Bill.

Sir, it is the practice with the business people—I mean the traders who are very often required to advance money on loan to their clients—to adjust the account as soon as any payment is made. It may be at an interval of one month, two months or six months or more. In that case, if he is not allowed to adjust the account under this provision, he will be subjected to a great disadvantage and to incur a loss. This will surely upset a long standing custom. It will benefit neither the debtor nor the creditor, as business will come to a standstill as an effect of this. The question of hardship seldom arises in such cases, as the rate of interest in business transaction is usually very low—much lower than what has been provided in this Bill.

With these words, I support the motion of my friend, Rai Bahadur Keshab Chandra Banerji.

Babu KHETTER MOHAN RAY: Sir, I support this amendment. My reason is that if we analyse clause 3, we find two conditions laid down under which the Court shall presume that a particular transaction is usurious. The first condition is that of a case where the interest charged exceeds the rate of 15 *per cent.* in the case of secured loans and 25 *per cent.* in the case of unsecured loans. The other condition is of a case where there is a stipulation for rests at intervals of less than six months. This stipulation for rests is quite unnecessary, because in a case where there is stipulation for rests at intervals of less than six months, the rate of interest is much lower than the rate fixed by the

former clause. Now, it may so happen that the interest charged in this case may not exceed the statutory limit of 25 *per cent.* as the case may be; but still under the provisions of clause 3, the Court shall presume, until the contrary is proved, that in a particular case it is usurious. I beg to submit, however, that in this case it is unnecessary, because the object is to limit the aggregate amount of interest claimed in a particular suit; and if the aggregate amount of interest does not exceed the statutory amount of interest, then I do not understand why the subsequent alternative provision should be added in order to make a stipulation usurious where there are rests of less than six months. I think it is not only unnecessary, but it will put restrictions upon banks and tradesmen who have to make periodical payments to their customers and debtors.

With these words, Sir, I commend the motion to the acceptance of the House.

Babu SATISH CHANDRA ROY CHOWDHURY: Sir, may I ask the member in charge of the Bill to state, for the information of the members of this House, what is exactly meant to be conveyed by the words "or that there is a stipulation for rests at intervals of less than six months"? Is it intended to apply to any amount? We should like to be enlightened on this point.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, before I answer the points raised, I would ask my friends—each of them, *viz.*, the Rai Bahadur, Mr. Poddar, and Khetter Babu—how much time they would take if I were to set them a simple proposition, *viz.*, I take a loan of Rs. 400 at 20 *per cent.* with monthly rests, how much would be my due ten years hence with compound interest. I wonder if my friends would be able to answer it within a reasonable period. My friends altogether forget that modern economic tendencies are against compound interest, for the simple reason that even the acutest mathematician would find considerable difficulty in calculating what the ultimate effect of compound interest would be. That is the reason why in this piece of legislation we have put in this provision——

Rai Bahadur KESHAB CHANDRA BANERJI: On a point of personal explanation, Sir. It is not the purpose of my amendment. What I mean is that if the period of rests is reduced to three months and the money-lender charges 2 or 3 *per cent.* as interest, the Court will presume that the transaction is usurious.

Khan Bahadur Maulvi AZIZUL HAQUE: But I was prefacing my remarks by saying as to why it was necessary to deal with compound interest in such a manner that it might relieve hardship as far as possible. I think we have been harsh in this matter, because we want the simple agriculturists to understand the consequences of their loans. I ask

my friends who are money-lenders and who have experience of money-lending or of borrowing to tell me and the members of the House whether they themselves can understand the intricacies of compound interest. My friend has asked me a question as to what will be the effect of 3 or 4 *per cent.* interest with monthly rests. I think my friend has not seen the language of the section. The section is a question merely of presumption, and it is open to the plaintiff to show that that presumption is wrong. I am quite sure that a judicial officer has got that amount of knowledge to find out what the ultimate effect of a 3 or 4 *per cent.* interest with monthly rests would be, and if he finds that as a matter of fact it is not harsh, then he will not give effect to the clause, and then the presumption will be rebutted. After all, you cannot legislate unless there is common sense somewhere. I want my friends to realise that this section should be interpreted in a manner that we really intend; we do not mean an absolutely hard-and-fast rule. We intend that the Court shall presume, and that presumption can be rebutted by the plaintiff, and it is open to the plaintiff to say that though he charged only 3 *per cent.* the net effect is 10 or 11 *per cent.* In view of this fact, my friend's contention is absolutely groundless. (RAI BAHADUR KESHAB CHANDRA BANERJI: What about fraudulent transactions?) As regards fraudulent transactions, I would like to ask him if he can cite any measure dealing with such practices. But simply because there is to be a fraud, will you hesitate to do your duty and pass this legislation? If frauds do come, they can be met with the common sense of man as also with the growth of primary education and other factors among the general public. Do my friends mean to say that money-lenders will continue to go on with fraudulent transactions? They will not, because reactions will come. My friend contended that there were many good money-lenders who would not take recourse to fraudulent transactions. Let me hope that there are many such money-lenders who will not take recourse to such fraudulent transactions. I oppose the amendment.

Rai Bahadur Keshab Chandra Banerji's motion was then put and lost.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that for the words "six months" in line 7, in clause 3, the words "one year" be substituted.

The reason for this change is that it will be difficult for the agriculturists who are going to be benefited by this piece of legislation to pay interest twice in the year. Their usual practice is that whenever they get their crops—be that jute, paddy or sugarcane, or whatever that may be—they pay off their debts, their *zemindars'* rents, their *mahajans'* dues and so on, and if they can save anything, they can utilise it for other purposes, or if they are unable to save anything, they go on borrowing throughout the year. That is the usual practice with our

agriculturists, and if we are to relieve them of the accumulation of any heavy liability, I think it will be proper that one year's rest may be allowed, and we should not insist that the interest should be paid every six months. This is the reason for which I press that this amendment should be accepted. For the traders or those who get monthly salaries, it may be easy for them to pay interest every six months but it will be difficult if not practically impossible for the agriculturists to make such payments, and for that reason I hope this amendment will be accepted by the House.

Rai Bahadur KESHAB CHANDRA BANERJI: I oppose the amendment for the reasons already put forward in connection with my amendment No. 66. The period of rest depends upon the rate of interest: the higher the rate the longer the period of rest, and the lower the rate the shorter the period of rest.

Babu HEM CHANDRA ROY CHOUDHURI: I rise to oppose the amendment. This clause refers to past transactions and not to future transactions only. All the co-operative societies and banks registered under the Companies Act accept deposits at an interest with rests of six months, and they are paying interest at that rate every six months. If this period of six months be increased to one year, I think those banks and co-operative societies will not be able to pay their interests to the depositors. If those banks and co-operative societies are not veritable evils in the villages and *mufassal* towns, and I know those are not surely so, those will also have to be saved. The mover of the motion refers to the agriculturists only, but this Bill does not cover the agriculturist-debtors only, but also includes industrialists, landlords and *zemindars* and every kind of debtor. Hence, there is no reason, because the agriculturists pay their rents annually, or that they gather their crops annually, that their interest also should be paid annually. On these considerations, I oppose the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose the motion on the ground that two Select Committees have gone through this Bill very carefully, and after taking very detailed evidence, they came to the conclusion that six months' rest was only fair. I might at the outset make it clear that I would very much like if it were made two years. But for the time being, I am in custody of the Bill which has passed through two Select Committee stages, and in fairness to the evidence put before them and the decision arrived at by them, I am morally bound to oppose the amendments, even though I have got my full sympathy with them. After all, I may say that when you draw a thing let us not overdraw it, and I feel that the measure as it stands is fair both to the interests of the creditors, agriculturists and money-lenders.

Maulvi SYED MAJID BAKSH: I support Kishori Babu's amendment. I did not know till now that in Eastern Bengal compound interest is to the fore, because all my friends of Eastern Bengal have vehemently and fervently supported compound interest unlike the other members of the House. My friend, the member in charge of the Bill, put a question just now to the money-lenders as to what would be the method of calculation of compound interest under certain conditions. I think I can venture to answer this question of his. It is a simple algebraical formula, but I do not like to trouble the House with that. I would like to remind the House that just now my friend remarked that compound interest is fast fading out of the pale of civilization; therefore, this stipulation for compound interest and provision for the same within a Bill which seeks to give relief to the poor people and help poor debtors out of the clutches of the money-lenders, is quite out of place. Even this one year is bad enough, but since we must make a choice of the evils, I would support Mr. Kishori Mohan Chaudhuri. Compound interest is resorted to chiefly by business men in Calcutta and is prevalent among persons who for the sake of their business borrow money and make large profits out of it and can pay. But if applied to agriculturists the first and foremost question will arise whether they will be able to understand the consequences of their transactions. Secondly, so much sum will be realisable from these persons as a result of these transactions that it will be as good as giving them no protection at all. It is no good saying, as has been said in the Bill later on, that the law of *damdupat* will hold good, compound interest or no compound interest. The creditor will not be able to realise more than double the amount of the principal sum, excluding the interest that is still due to him. But the creditor who will know his position very well, will see to it that he utilises the provisions of the Bill to the fullest extent. He will not allow a day to pass after the sixth month before he will use his privileges under this clause of the Bill which provides for rest. He will realise the interest and would not wait till the amount becomes double and in this way, contrary to the provisions and intentions of the Bill, he will be able to realise more than treble or even four times the amount that he has lent. Therefore, not to allow him any more latitude, I submit that the member in charge of the Bill will do this kindness to the agriculturists and accept the motion before the House.

Babu Kishori Mohan Chaudhuri's motion was then put and lost.

Mr. SARAT KUMAR ROY: I beg to move that in clause 3, in line 7, for the words "six months," the words "three months" be substituted.

Sir, I have to point out that since the area lying within the city of Calcutta is being excluded from the operation of the Act, the big banks and private money-lenders of Calcutta will continue to enjoy the privilege of getting quarterly and even monthly rests as they now do.

The number of money-lenders in rural areas is no doubt large; but their capital is generally very small, and the securities they obtain are in most cases unsatisfactory. At any rate, these securities are not half so sound as those which the Calcutta debtors can offer. Hence, accumulation of interest in these cases should be particularly guarded against.

Under such circumstances, I do not find any reason why the privilege that is being extended to Calcutta money-lenders should not be extended to money-lenders of rural areas.

Then, again, in the rural areas, the debtors continually neglect to pay interest timely. It ought to be remembered that stipulation for compound interest acts as a goad for punctual payment of interest and, as such, it prevents ruinous accumulation of interest. And the smaller the instalment, the easier for the debtor to pay.

Moreover, so long as the borrowers remain negligent in paying their dues, it is but meet and proper that the Courts of law should not interfere with such stipulation as quarterly rests if agreed upon by the parties.

Sir, I think, if the period of rest is shortened to three months, the debtor will not be prejudiced. On the other hand, he will find it easier to meet the demand.

Hence, I think that a short period of rests will prove advantageous to both parties.

Khan Bahadur Mauivi AZIZUL HAQUE: Sir, I oppose it. I have made it substantially clear before that it is desired in this Bill to make fair to all parties that three months' rest will create very great hardship and complications. On this very simple ground I oppose the amendment.

The motion was put and lost.

The motion that clause 3 as amended stand part of the Bill was put and agreed to.

Clause 4.

Mr. ANANDA MOHAN PODDAR: I beg to move that clause 4 be omitted.

This is a new clause inserted by the Select Committee. By this the principle of *damdupat* is sought to be applied in loans made before the commencement of this Act. The creditor is here going to be deprived of his legitimate share of interest to some extent if he had failed to sue the debtor at an early date. In other words, the creditor is going to be penalised for his forbearance to sue the debtor in respect of the transaction if he allows the interest to accumulate. The money-lender

is very often compelled to stay legal proceedings for the mutual benefit of the debtor and himself. It is usually the practice with the creditor to wait for his claim till the last date of limitation. He does not do so from any *malafide* motive, but only to give the debtor proper facility to repay the loan. The debtor as well welcomes such an arrangement. This is the custom from time immemorial. But here it is provided that the creditor is to satisfy the Court that he had reasonable grounds for not enforcing his claim earlier. It will be very difficult for the money-lender to adduce evidence on this point. On the other hand, the defence will invariably take this plea and the procedure will be com-

a procedure, but it would only unsettle the existing relations between the debtor and the creditor.

For these reasons I move that this clause be omitted.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I rise to support the motion, that is, for the omission of clause 4. Sir, this clause adds to the inconsistencies of the Act. The present Act, on the very face of it, does not approve of *damdupat*. It is clear and everyone can see that. But again, if you look at clause 4, it indirectly brings in the principle of *damdupat*. I object to clause 4 on the ground of this inconsistency. Sir, I also object to clause 4, because the discretionary power which it intends to give to the Court is on the one hand very vague and on the other hand very dangerous. The law should be very clear and definite on this point. I am for giving no discretionary power to the Court. I want to make the law on this point as clear as under the circumstances possible. Take, for example, the case where a money-lender did not sue a borrower. Why did he not do so? Is it out of generosity or is it to increase the interest on the principal and to devour all the properties of the borrower? Certainly not. What are the reasons which weighed with the money-lenders? Different Courts will certainly come to different conclusions. There will be no uniformity in law in its execution. That will be a very bad thing, and I for one cannot support it. In a sense, clause 4 will give retrospective effect which I am sure is not in the contemplation of the Legislature. The case being so, why should you put in those inconsistencies?

Sir, on this and other grounds, I support the deletion of clause 4.

Mr. SARAT KUMAR ROY: Sir, I am sorry that the Bill proposes to penalise such honest money-lenders as have allowed sufficient time and opportunity to their borrowers to pay off their debts, although its unfortunate result had been merely accumulation of interest. But for this evil it is the borrower who is to be blamed and not the lender. If he had paid his interests regularly, the interests would not have accumulated.

In any case, as the lender derives no special benefit by so allowing the interest to accumulate, there is no reason why any penalty should be imposed upon him and that with retrospective effect.

The provision of clause 6 of the Bill is drastic and, if enforced, it would prove very oppressive to lenders and, further, I think there is hardly any necessity for enacting legislation with retrospective effect. Moreover, I think that the provisions of clause 3 is sufficient to enable the Court to do substantial justice as between the parties before it. Clause 4 will, on the other hand, prove oppressive to many innocent money-lenders.

I, therefore, propose that this clause be deleted.

Babu KHETTER MOHAN RAY: Mr. President, Sir, I rise to support the amendment moved by my friend Mr. Ananda Mohan Poddar. This clause seeks to control transactions which took place before the enactment of law. The arguments which I have urged against clause 3 are equally applicable to this clause so far as they relate to the retrospective effect of the Bill. But there are other cogent reasons why this clause should not find place in the Bill. This clause was not in the original Bill nor was it in the Bill as amended by the Select Committee after their first meeting. But it was inserted during the sittings of the Select Committee when they met for the second time. I have not been able to grasp the reasons for its inclusion in the Bill. It was often argued in favour of the Bill on behalf of the Government that it would be of an experimental measure and was not intended to control the past transactions. These arguments had disarmed many strenuous oppositions which would otherwise have been offered to it. Here, Sir, I beg to point out that this clause not only infringes on certain provisions of the Indian Limitation Act, but also a well-known principle of the Indian Evidence Act. It is in this way: A money-lender has certain statutory periods fixed by the Limitation Act according to the nature of loans within which he can institute suits in the Civil Courts to recover the money lent together with arrears of interest. There are provisions in the said Act under which the debtor can extend these periods by payment of interest and acknowledgment of debt. Now, Sir, under the provisions of the Limitation Act, the creditor can wait up to the last day of limitation. But clause 4 compels him to sue for his money within a much shorter period if he wants to recover his interest in full. In other words, his right to sue within a certain period allowable under the Limitation Act will be practically curtailed by an ingenious device embodied in clause 4. Is it not taking away of the right of a man vested in him by a statute of the Supreme Legislature? Law allows him unfettered discretion when to sue and when not to sue. It is a valued right the enjoyment of which cannot be and should not be disturbed by any enactment of any provincial Legislature. Under the

provisions of clause 4, the debtor is entitled to get certain benefits under some definite conditions, that is to say, that he may be allowed remission of a portion of interest when the amount of interest exceeds that of the principal. According to ordinary rule of proof, the burden of proof is on the person who seeks the benefit to prove that the conditions entitling him to the benefit exist. It is not on the person against whom the benefit is claimed. But here the onus of proof is shifted. The creditor has lawfully abstained from taking any action to recover his money. He cannot be blamed for waiting for a long time if the law permits. But still the onus must be shifted on his devoted head in order to give easy relief to the debtor. Is it just and equitable? One may refrain from suing for a hundred and different reasons; he must be punished for his so-called delay in bringing action. Nowadays, a creditor does not feel inclined to rush to Courts unless compelled to do so, because of the heavy expenditure in the shape of payment of Court fees involved in it. However, the Government may curse this disinclination in a man to sue because this has the effect of decreasing the revenues. Certainly, the creditor should not be punished for it. One of the results of this provision will be that a number of suits will be instituted at once for recovery of money to the detriment of the debtors, ostensibly for whose benefit this provision is going to be enacted. I venture to say that instead of doing good to them, it will do immense mischief to the general body of debtors. It is the prime concern of the creditors to realise arrears of interest as soon as possible, and it is against his interest to allow arrears of interest to accumulate. He should not be punished for default of the debtor in making payment of interest as it falls due.

In conclusion, I should like to say that it is mockery to legislate to control past transaction as to the rate of interest, when the village money-lenders clamour for payment of their principal money alone and the agriculturists are not in a mood to repay the same even.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, once upon a time in this land there was a great legislator named Manu, and I think I need not say anything more than that. It was he who enacted at a time when probably we were not what we are to-day that interest on a loan must not exceed the principal. This is even now applicable to the Original Jurisdiction of the High Court, and I have not yet heard that there has been any complaint. (BABU KHETTER MOHAN RAY: That is applicable to Hindus only.) Well, I do not think that Hindus should have the monopoly of all good things. Sir, so far as this clause is concerned, it will be seen that it is not that we are absolutely debarring money-lenders from getting anything more than the principal, but where there is a definite case that a money-lender has not deliberately enforced his claim with a view to swelling the principal, what is the remedy? This section will not always be operative, for it would be simply open to the money-lender to say that he did not enforce his claim earlier for such

and such reason. I think it is well known that the conditions of the debtors in this province have come to such a state that something should be done. I am not going to say here that, as in certain other countries of the world, there should be no realisation of the debt till the permission of the Court is taken; it is nothing like that. It simply says that you might realise what you can through the Court, and that ought to be enough under the present circumstances. In that view, I oppose the amendment.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, when I submitted my amendment, I had in mind the interests of the debtors more than of the creditors, and when I found the name of Dr. Sen Gupta associated with the same amendment, I felt no doubt that I was in the right. I was never a great enthusiast for vested interests, but I think reason and common sense ought to prevail in human affairs both at present and in the future, as it did prevail in the past. The effect of this amendment will be, whatever may be in the mind of the author of the Bill, that it will startle, rightly or wrongly, the creditors, and they will rush to the Court in order to have their dues realised. On account of the economic distress prevailing for a number of years, there has been a good relation between the creditors and the debtors. It may be that the creditors have made a virtue of necessity. The fact, however, remains that the creditors have been during the past few years as kind as one might expect them to be, and they have not gone to Courts to enforce their demands. If suddenly they find that, as a result of their forbearance, they are going to suffer in respect of the interests which have accrued on their original amount and which have gone beyond the principals, there will be great discontent amongst them, and they will not feel disposed to wait further for better times to come. It is necessary to see that the creditors are not frightened and do not run to law Courts. It is also necessary that the creditors should have the idea that if they wait longer they will not be penalised for it. From the opinions called for and submitted to the Government, we find that the Registrar of Co-operative Societies says that "clauses 14 and 14(*a*) have already elicited objections from several members of the Select Committee. If Co-operative Societies are not excluded from the operations of the Bill, I have serious objections to clauses 14 and 14(*a*) of the Bill so far as they advocate the application of the law of *damdupat* in case of certain loans. This provision will handicap Co-operative Societies, particularly the Co-operative Land Mortgage Banks, in issuing long term loans. At this time, when on account of general economic depression the members of Co-operative Societies are not in a position to repay their debts to the Societies, it has become necessary in a very large number of cases to extend the term of repayment. Among the cases in which the extension of term of repayment will be necessary, the number in which the interest has become equal to the principal will, I am

afraid, be considerable. If the law of *damdupat* is applied to these cases, most of the societies will suffer heavily and many of them may have to be liquidated, as it is not expected that any substantial amount of the loan will be recovered at present." If that is the position of the Co-operative Societies, the result can very well be imagined with the ordinary money-lenders. If this law is passed, Government will also be very slow in bringing into existence long-term Land Mortgage Banks. I believe it is entirely in the interests of the debtors that this clause should not be passed into law. The very arguments used by the Registrar of Co-operative Societies will also apply to the Land Mortgage Banks. The member in charge of the Bill supports this clause by saying that if on reasonable grounds the creditor does not enforce his claim earlier, the Court may limit the amount of the interest to an amount equal to the principal of the loan. I ask the Khan Bahadur whether he wants the debtors and the creditors to be in the arms of the lawyers. I think it would be better for the debtors to be in the hands of the creditors than of the lawyers. The arguments of the Khan Bahadur would show that the burden has been placed on the debtors, but I think it is the reverse. The present clause puts the onus of proof on the creditors. It would be impossible for the creditors to prove in every case that they had good grounds for waiting. I submit that this amendment, if carried, would be both to the interest of the creditors and debtors.

Khan Bahadur Nawab MUSHARRUF HOSAIN: Sir, I am surprised that a motion like this has come from the Hindu Savaists.

Babu SATISH CHANDRA RAY CHOWDHURY: I am not a Hindu Savaist.

Khan Bahadur Nawab MUSHARRUF HOSAIN: I say, especially from my Hindu friends. This is a rule of Hindu law. If the people are willing to accept the Hindu doctrine, why should the Hindus here stand in its way? If my friends would accept the principle of Muhammadan law and try to take advantage of it, I would be very glad to extend it to them. I do not understand why in these days when everybody is thinking of conversion and increasing the number of his community, my Hindu friends should stand in the way of spreading the Hindu doctrines.

Rai Bahadur KESHAB CHANDRA BANERJI: On a point of order, Sir. Are these points relevant to the motion under discussion?

Mr. PRESIDENT: Not at all.

Khan Bahadur Nawab MUSHARRUF HOSAIN: My friends are very anxious for securing the interests of the money-lenders. I am equally anxious for them. I believe that if this is passed into law, the debtors will come forward to pay up a certain portion of interest so that what will be left would not be equal to the amount of the principal. So instead of the Act being against the interests of the money-lenders, I believe it will help them a great deal in these difficult days. From that point of view I believe this is a very good measure. My friends know that this law is used within the jurisdiction of the Original Side of the High Court, and if it is extended outside it a lot of people will accept it. I, therefore, see no harm in giving relief to the people living outside Calcutta. With these words I oppose the amendment.

(The Council was then adjourned for 15 minutes for prayer.)

(After adjournment.)

Rai Sahib SARAT CHANDRA MUKHOPADHAYA: Sir, I have asked for the omission of this clause altogether. If this clause be passed into law, it will not only violate the sanctity of past contracts even in cases where the rate of interest is fair and moderate, but will give rise to false and vexatious defences and unnecessary litigations based on an uncertain factor, namely, whether the creditor had reasonable grounds for delaying the institution of the suit. In many cases, I might say in almost all cases, where the creditor had delayed the suit, allowing interest so to accumulate as to go higher than the principal, the real fact is that he did so at the importunity of the debtor and other gentlemen sympathising with him to wait till the debtor is in a better position to pay, when the creditor never expected that such a law would be passed that will penalise his yielding to such importunities. It would be difficult for any creditor to make out what are reasonable grounds and to prove them. In the abovementioned case, even the most honest creditor expects that the amount will be realised without suit, when he would grant some remission, but when he would institute suit he will claim the entire sum as it is well known that the real difficulties of the creditors begin after the decree when the debtors, by all means that they can possibly devise, try to resist realisation and involve the creditors in various litigations, putting the creditors to such heavy costs that in spite of their getting the decree carrying interest higher than the principal, very little or no interest actually comes to their pocket. For these reasons, I support this amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I wish to make my position clear with regard to this clause. I think that there is a great deal of justice in the claim put forward in this amendment, *viz.*, where a loan is usurious in character—where the interest charged is high—section 3 provides for a remedy. In such a case, the Court can give

any amount which it considers fair and just, having regard to all the circumstances. Therefore, clause 4 can only come into operation where the rate of interest is not usurious, and it comes into operation only to limit the interest, merely because of the delay in realising the interest on the part of the creditor. That delay may be on reasonable grounds or unreasonable grounds. This clause puts the burden of proof upon the creditor to show that the delay was due to reasonable grounds, and it is always a very difficult matter to prove whether time had been given by a creditor to a debtor on oral application at a time when no possibility of injury to his interest arose by reason of that. Under these circumstances, it is quite possible that the loan granted at a very low rate of interest may have grown to double the principal amount in the course of time and limitation may have been saved by payments from time to time of very small amounts of the principal. Let us suppose, for instance, a case where a sum of Rs. 100 was lent in 1910 on a mortgage at simple interest of 6 *per cent*. In 1922, supposing Rs. 10 is paid as interest and in 1933 the total amount of the debt after deducting the amount paid comes to Rs. 220; this is not a usurious loan. Nevertheless, this creditor will have to go to Court of Law and satisfy it that the time granted was on reasonable grounds. I submit, Sir, that there is no justification for asking the creditor to prove that. We must remember that the rule of *damdupat* is not a rule of absolute justice. If it had been so, I would not have minded to give it retrospective operation as much as possible. It is not a rule of justice, but a rule of limitation; it only prevents people putting off the realization of debts beyond a certain time and that time is marked by the amount of interest accumulated. Therefore, Sir, I do not think it is at all justifiable in cases of this character to penalise a man merely because he has allowed the interest to accumulate. There was nothing in the previous law which prevented him from accumulating interest and in nine cases out of ten, it will be found that the interest remained unrealised rather at the importunity of the debtor than in the interest of the creditor. As a rule, a creditor, unless he can claim compound interest, will not care to leave his interest unrealised. Therefore, there are numerous cases in which it would be extremely unfair to put this rule into operation against a creditor and to make an exception only in cases where the realisation has been delayed on reasonable grounds. You will notice that this is the only ground on which a Court can exempt a creditor from the operation of this rule and only if it is satisfied that the money-lender had reasonable grounds for not enforcing his claim earlier. But even if the Court is satisfied that the money-lender was not usurious and harsh upon his debtor, even then the Court is not given permission to apply the rule. I submit that this is extremely hard upon the creditor who may have given time to the debtor from sheer consideration or kindness to accommodate him when there was no limitation upon his powers to do so, but all the same he may find it difficult after the

lapse of years to prove that in each particular case there were reasonable grounds on his behalf or that there was an application from the debtor to get more time. For this reason, I think it would be unfair to give retrospective operation to this clause in the form in which it stands at present. My amendment No. 97, of which I have given notice, might serve this purpose, so that with that limitation there would be no harm even in giving retrospective operation to the clause. If that amendment could be accepted by the member in charge of the Bill, then I should not have thought of speaking to this motion at all, but I must say that there are certain circumstances not contemplated in this section under which this rule would work unnecessary hardship on the creditors. It is a very different thing from an arbitrary rule which makes for a composition of a debt. I could have understood that. If you make a rule such as that, no creditor should be able to realise more than half of his dues. I could well understand it; it is equally oppressive. But the clause would work more harshly upon the creditor who has been kind enough to grant time and would give preference to the creditor who has been very diligent in realising his interest from time to time and has, in fact, taken from his debtor a great deal more than he would otherwise have got, or simply he could have taken advance interest from him. For these reasons, I do not think that the clause as it stands is justified, and it should be amended if it is to be kept at all.

Maulvi TAMIZUDDIN KHAN: I rise to oppose this amendment. This clause incorporates, as has been said, the law of *damdupat* which is in operation within the Original Jurisdiction of the High Court. The amendment seeks to do away with this clause altogether, and all the speakers who have supported this amendment, except my friends Babu Satish Chandra Ray Chowdhury and Dr. Naresh Chandra Sen Gupta, have supported it on the argument of "the pound of flesh." Sir, avarice must have some limit, specially when millions of people are likely to be ruined on account of that avarice. What is the justification of the law of limitation? The only justification is that it is necessary to put a limit somewhere. Will it be proper if the creditor is allowed to realise as interest more than what his principal is? I appeal to the natural sense of justice in the members of this House. Having regard to the prevailing poverty of the masses in this country and having regard to the difficulties of the debtors in these days of unprecedented economic distress, will it be unjust if the creditor is allowed as much interest as the principal sum? That is the ground on which I oppose this amendment. My friend Babu Satish Chandra Ray Chowdhury has opposed it, as a protagonist on behalf of the tenants. He says that the tenants will be inconvenienced if this amendment is carried. His argument is that the creditors will all rush to Court if this amendment is carried, because they will have no interest in keeping

their loans pending any longer because there will be no further accumulation of interest. I am afraid my friend forgets that this clause is to have effect only as regards past transactions and not as regards future transactions. So far as past transactions are concerned we all know that during the last two or three years there have been very few cases of fresh loans in the country—all existing loans are more than two or three years old. So far as those loans are concerned, they were taken at a very high rate of interest then prevailing in the country. In most of these cases, the interest has already accumulated up to the amount of the principal. If, therefore, the creditors are not rushing to Court at present, it is not because of the fact that they have either no money to go to Court or that they do not find any good in going to Court under the present circumstances, but, because there is no immediate prospect of getting anything by the execution decrees obtained in Court. So there is no apprehension that the creditors will rush to Court if this clause is carried. I, therefore, oppose the amendment.

Mr. NARENDRA KUMAR BASU: I must say I am rather surprised at the remark made by the last speaker that this clause, if passed into law, will only apply to past loans and not to future loans. Oh, I am sorry I am wrong. However, my objection to this clause is based on other grounds. I think what some of the previous speakers, especially Babu Satish Chandra Ray Chowdhury, said about the iniquity of the clause is a very good point. I am sorry I have again to refer to the Provincial Banking Enquiry Committee's Report, and I am sure I shall again be met with the retort that this portion of the Report was not unanimous and that it was not very explicit. You will find at page 196, paragraph 411 of the Report that almost all the *mahajans* insist on the punctual payment of interest, for that forms their principal source of income. They seldom press for the payment of the principal before the expiry of the period of limitation, unless the security has been found to be inadequate. It has also been said in other parts of this Report that the reason for the indebtedness of the peasantry of Bengal and for the prevailing usury in Bengal—of all the reasons the chief is that they have very little credit to fall back upon, and it is very difficult for them not only to get a loan but to repay the loan already taken. If that be so and if the vast majority of *mahajans* (I am talking of village *mahajans* and not of big *mahajans* and banks, but small money-lenders) who are very punctilious in getting their interest or in at least trying to get, and if they fail to realise it, so that the interest accumulates, I submit it would be strange logic to say that because they have shown grace to the borrowers and have refrained from suing them, they are to be debarred from getting what may be their principal and only source of income. As I ventured to say in my note of dissent when this Bill was before the First Select Committee, one result of the operation of this clause would be that it would make the position of the honest debtor, if anything,

harder than that of those who have refrained from paying their just dues. Creditors whose debtors are honest and have paid their interest, they will not be hit at all, but the dishonest debtor who is allowed to accumulate interest will be placed in a favourable position. I submit, therefore, that this section should not be passed.

Mr. SHANTI SHEKHARESWAR RAY: I oppose the motion before the House. This clause is a new clause and is an improvement made by the Select Committee on the original Bill of Khan Bahadur Azizul Haque. I am inclined to think that of all the proposals contained in this Bill this clause is likely to prove the most useful one. Those who have been pressing for the omission of this clause and opposing this principle have failed to grasp the basic idea behind this proposal. In discussing this measure, we should not only confine ourselves to the question of the rate of interest that should be considered fair, but we should also do something that may be really useful. There may be various ways of avoiding the specified rate of interest; dishonest money-lenders may take advantage of needy borrowers by demanding an advance payment instead of a higher rate of interest, but I shall not go into that now. What I want to press before the House and specially ask members who have opposed this suggestion is this: whether it is not really time for us to do something for the indebted agriculturists in particular and debtors in general. Sir, the situation in the country is that the agriculturists in the land are involved in huge debts—debts that they cannot repay. By accepting this suggestion you give them a certain amount of relief, you instil in them some hope. For instance, a man who is saddled with a load of interest, twice or thrice the principal he took, has no inclination to make an effort to clear off the debt, but if you give him an opportunity of clearing off the principal and a part of the interest, well, perhaps he may be saved. What is intended is to save the poor agriculturists from a class of money-lenders who are after grabbing their land. It is the interest not only of the tenants to see that they are not dispossessed of their lands but I think it is also the interest of the landholders and *zemindars* to see that such a thing does not come to pass.

Mr. PRESIDENT: What are your objections to the clause?

Mr. SHANTI SHEKHARESWAR RAY: Sir, I am supporting the clause and opposing the amendment.

Mr. PRESIDENT: Then you ought to show how the amendment affects the benefits of the clause.

Mr. SHANTI SHEKHARESWAR RAY: Yes, Sir, I am going to show how it is likely to help the people, how it is necessary in the present

condition of the country and how at the present moment it will not adversely affect the money-lenders, because I am told that the money-lenders will be satisfied if the principal only is repaid. Here not only there is provision for the repayment of the principal, but also for a certain amount of interest. Of course, I admit that it will perhaps be very hard to convince the persons who will be adversely affected by the passing of such a clause, but I would appeal to them to make a sacrifice by accepting this suggestion. As a matter of fact, this suggestion itself is a sort of compromise. When the matter was before the First Select Committee the recommendation went far beyond the present proposal, but later on I think the attitude of Government underwent a change and when the matter came up before the Second Select Committee, the proposal was considerably toned down. The original proposal was that in calculating the interest, arrear payments would also be considered. Now that point has been given up. Well, I am not much convinced whether the original recommendation of the Select Committee would have been better or this one, but as the Select Committee has accepted the proposal in this form, I whole-heartedly support the proposal and oppose the amendment.

Mr. Ananda Mohan Poddar's motion being put, a division was taken with the following result:—

AYES.

Banerji, Rai Bahadur Keshab Chandra.
Basu, Mr. Narendra Kumar.
Das, Rai Bahadur Satyendra Kumar.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Sak Lal.
Poddar, Mr. Ananda Mohan.
Ray, Babu Khetter Mohan.
Ray Chawdhary, Babu Satish Chandra.
Rout, Babu Hosani.
Roy, Babu Jitendra Nath.
Roy, Mr. Sarat Kumar.
Roy Chaudhuri, Babu Ham Chandra.

NOES.

Afzal, Nawabzada Khwaja Mohammad, Khan Bahadur.
Armstrong, Mr. W. L.
Ashworth, Mr. C. G.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Mr. P.
Bannerjee, Babu Jitendralal.
Barma, Rai Sahib Panchanan.
Bellamley, Mr. J. M.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Chowdhury, Maulvi Nurul Absar.
Dain, Mr. G. R.
Edgley, Mr. H. G. A.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dhaka.
Hirchirst, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Hakim, Maulvi Abdul.
Hoque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hoque, Kazi Emdadul.
Hossain, Nawab Musharraf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Mitter, the Hon'ble Sir Provash Chander.
Mitter, Mr. S. C.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Philpot, Mr. H. G. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur.
Rahman, Maulvi Azizur.
Ray, Babu Amiyadhan.

Ray, Babu Nagendra Narayan.
Ray, Mr. Shanti Shekhareswar.
Ray, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. S. N.
Samad, Maulvi Abdus.
Sarker, Rai Sahib Rebati Mohan.
Sen, Rai Sahib Akshoy Kumar.
Sen, Mr. B. R.
Shah, Maulvi Abdul Hamid.
Steven, Mr. J. W. R.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 12 and Noes 60, the motion was lost.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that in clause 4, in line 4, after the words "arrears of interest," the words "together with interest already paid" be inserted.

The object of my amendment is to afford adequate relief to the poor debtors. Those who contract debts suffer from various disabilities. They remain more or less under the mercy of the money-lenders, the majority of whom are reported to be unscrupulous in their exactions. Barring honourable exceptions, they suck the life-blood of the debtors to an unspeakable extent; hence, it is said that once a debtor, always a debtor. He knows no peace till the debt is discharged in full, which is seldom the case with poor debtors. The balance of debt, however insignificant, has been compared with smouldering fire which, if wafted by the wind can end in widespread conflagration. If the debtor is to be saved, interest already paid by him should be taken into account. It would be both fair and reasonable to do so. The money-lender should not grudge in all fairness to deduct the amount of interest already paid by the debtor from his claim for interest. Of course, the money-lender must get a fair return for his investment, but that should not be too heavy for the debtor to bear. The interest paid by a debtor indicates his earnestness to meet his dues. He should not be made to suffer for such payments, but should be encouraged to do so. If he finds that he will be a loser in the long run by such payments, he will naturally hesitate to make regular payments in the remote thought of taking shelter under the provisions of the Act. This would be neither fair to the money-lender nor to the debtor.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I oppose this amendment, and in doing so I shall not overdo my part. (A VOICE: That is bad.) It may be bad, but very wise. In view of the fact that we are limiting the effects of the Usurious Loans Act, I think we should be cautious, and even it is applicable in the Original Side of the High Court. In that view, though I am in sympathy with the mover of the amendment, I must oppose the motion.

The motion was then put and lost.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 4, lines 5 to 7, the following words be omitted, namely:—

> "unless it is satisfied that the money-lender had reasonable grounds for not enforcing his claim earlier."

If these words are retained in the clause, it will give rise to all sorts of difficulties. In every case in which the law of *damdupat* will be sought to be given effect to, the money-lender will put forward the plea that he had reasonable grounds for not enforcing his claim earlier. Hence, litigation will be prolonged and the effect of this clause will practically be nullified if these words are retained. I, therefore, think that these words may be safely omitted, and if this is done, the clause will be improved to a large extent.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I would have been glad to accept this amendment, but I find a great difficulty and a reasonable difficulty also in doing so. All that this clause seeks to lay down is that a certain power will be exercised by the Court. If the Court is satisfied that the money-lender had reasonable grounds for not enforcing his claims earlier, it is then and then only that the Court will exercise that power. It is not our intention also to check all sources of credit, but to see that credit is established on good economic foundation. In that view, although I am very much in sympathy with my friend, I must oppose the motion.

The motion was then put and lost.

Babu HEM CHANDRA ROY CHOUDHURI: I beg to move that in clause 4, in lines 5 to 7, for the words "unless it is satisfied that the money-lender has reasonable grounds for not enforcing his claim earlier" the words "if it is proved that the money-lender had *malafide* motive for not enforcing his claim earlier" be substituted.

Sir, the effect of this motion, if carried, will be that the onus will be shifted from the creditor to the debtor. The principle of evidence at present is that the person who claims any special privilege shall have to prove the special circumstances under which he is entitled to that privilege. Now, Sir, the debtor wants to have the privilege of this clause, that is, the principle of *damdupat;* he must, therefore, prove that the creditor had no reasonable ground but had *malafide* motive for not enforcing his claim earlier. Khan Bahadur Maulvi Azizul Haque, while opposing an amendment to clause 4, said that the creditor should pay the penalty for deliberately waiting and swelling up his claim. If that is his view, I think he should also support my motion, for deliberate motive on the part of the creditor must be proved by the debtor. My point is that the debtor is to prove whether the creditor had deliberately waited with a *malafide* motive, and that as statute allows to wait till

period of limitation, why should the creditor be punished if he had no *malafide* motive? So I do not see why the creditor should be asked to prove reasonable grounds of waiting. The other arguments in favour of this motion have been discussed by the movers and supporters of motions Nos. 78-86. So I do not want to repeat them.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, may I draw your attention to the fact that amendment No. 96 is identical with the amendment under discussion.

Mr. PRESIDENT: I do not see why amendment No. 95 should not be moved at this stage. After that is moved, we might have one discussion on amendments Nos. 94-96.

Babu KHETTER MOHAN RAY: I beg to move that in clause 4 in lines 5 to 7, for the words "unless it is satisfied that the money-lender had reasonable grounds for not enforcing his claim earlier" the following be substituted, namely:—

> "if it is proved that the money-lender had no reasonable grounds for not enforcing his claim earlier."

Sir, I have tabled this motion in order to make it consistent with the law of proof which is now in force in this province. The law, as I have said in connection with another amendment of mine, is that a person who seeks any benefit must prove the conditions which entitle him to such a benefit. But in this particular case the debtor has not got to prove that there were certain grounds under which the Court could give him the decree. It is for the money-lender to prove it. The onus has been shifted on the creditor. It is not an immaterial amendment to clause 4. It is with regard to the shifting of the onus, and the words are almost the same as in the clause itself. I submit that if it is the intention of the Legislature to safeguard the interests of the debtor, it is as much the duty of the Legislature to safeguard the interests of the creditor.

With these words, I move my amendment for the acceptance of the House.

Rai Bahadur KESHAB CHANDRA BANERJI: I beg to move that in lines 5 and 6 of clause 4, for the words "unless it is satisfied that the money-lender had reasonable grounds for," the words "if it is proved that the money-lender had any dishonest intention in" be substituted.

My reasons in favour of this amendment are practically the same as those advanced by Babu Hem Chandra Roy Choudhuri and Babu Khetter Mohan Ray in moving their respective amendments. The onus of proof should be on the debtor and not on the money-lender, because

as I have said previously it is the debtor who is primarily interested in this matter. The money-lender does not go about from door to door offering money to people, but it is the borrower who goes to the money-lender for the purpose. If the burden of proof is shifted on to the shoulders of the money-lender, then it would be putting an unnecessary restriction on him for no fault of his. In most cases it will be difficult for him to recover his dues. It is very hard for the investor in these days to recover his just dues from the debtor. In the first place, many of the smaller money-lenders have not got funds enough to institute suits against their debtors for the recovery of their dues. The result is that they have to wait indefinitely until the debtors find it convenient to pay. At present, there is a systematic propaganda going on in certain parts of the province against payment of dues to money-lenders. In some cases, the interest is denied altogether, and a promise is held out for the payment of the capital only and that also by instalments.

So, Sir, as I said the other day, the time has come to undertake legislation for the protection of the money-lenders against the vagaries of debtors. The protection of money-lenders is as great a necessity as the protection of debtors against the money-lenders. That is why I think that the burden of proof should be on the debtor and not on the money-lender. With these words, I commend my motion for acceptance.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to oppose all these amendments on two grounds. These amendments seek to throw the onus on the debtors, or rather to shift the onus from the creditor to the debtor. Now, from the respective position of the debtor and the creditor, it is only reasonable to expect that it is more easy for the creditor to prove a thing than the debtor; therefore, in justice, it is proper that the onus should be on the creditor. Secondly, Sir, there is the fundamental principle of law that the onus should lie on the person who has to prove the positive, because it is always difficult to prove a negative proposition. My friends propose that the debtors shall have to prove that there were no reasonable grounds on the part of the creditors in not enforcing their claims earlier; that is, he will have to prove a negative. Another amendment wants him to prove a *malafide* intention on the part of the creditor in not enforcing his claim earlier. This is also extremely difficult to prove. Therefore, it will be unfair to shift the onus on the shoulders of the poor debtors. If these amendments are carried, clause 4 will be altogether nugatory. For these reasons, I oppose all the three amendments.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I think my friend Maulvi Tamizuddin Khan has partly answered all what I have to say in regard to these three amendments. I would ask my friend Babu Hem Chandra Roy Choudhuri what he exactly means when he says that the onus should be shifted from the money-lender to the debtor. Unless

it be put on the money-lender, on whom else can it be shifted? Can any person other than the money-lender say why he did not come to the Court for enforcing his claim, and that is entirely a matter for the money-lender himself. I think my friends know the well-known principle of the Evidence Act that when a person has a special knowledge of a particular fact, the onus is on him. I have not yet heard how it is possible for the debtor to find out anything about the *malafide* intention of the money-lender. It is for the money-lender to definitely say why he did not proceed with his claim, and it is for the Court to judge whether it is a sufficient ground. For these reasons I oppose these three amendments.

Babu Hem Chandra Roy Chaudhuri's motion was then put and lost.

Babu Khetter Mohan Ray's motion was then put and lost.

Rai Bahadur Keshab Chandra Banerji's motion was then put and lost.

Dr. NARESH CHANDRA SEN GUPTA: I ask for your leave, Sir, to move my amendment with a little verbal alteration.

Mr. PRESIDENT: What is the verbal alteration?

Dr. NARESH CHANDRA SEN GUPTA: I want to omit the words "this Act in respect of loans made after this Act," and to substitute therefor the words "section 3."

The motion in its altered form will run thus:—

"That in clause 4, in lines 5 to 8, for the words beginning with 'unless it is satisfied' and ending with 'principal of the loan,' the following be substituted, namely:—

'Unless it finds that the rate of interest was not above the maximum rates specified for the kind of loan in question by section 3, may limit the amount of interest recoverable in the suit to an amount equal to the principal of the loan.' "

Mr. PRESIDENT: Yes, you have my leave.

Sir, most of my reasons I have already given in speaking on amendment No. 78. This clause as it stands is not fair. At the same time, I could not vote for the deletion of the clause, because I thought that something like this provision should be retained in the case of really usurious loans. I have also already explained how it becomes unfair in the case of a person who has lent a sum of money on a small rate of interest and has waited, because there was no penalty imposed by the law, until the interest has exceeded the principal. It is unfair to him. It gives, on the other hand, an unfair advantage to the rapacious

money-lender who comes in with his *lathi* and realises his high rate of interest so that the interest cannot exceed the principal. (RAI BAHADUR KESHAB CHANDRA BANERJI: It is only the Kabuli money-lender who can do so.) That is the class of money-lenders who are given a free hand. It has been said in reply that we have got to make some such provision in order to save the cultivators, because they will be sold out of their holdings except for this. I submit, Sir, that there is a great deal of fallacy in this argument. In the first place, this Act does not apply to cultivators alone. The rich *zemindar* who has borrowed lakhs and lakhs of rupees will also come under the provisions of this Bill, and the *mufassal* industrialist who has borrowed will also get the benefit of this section. If it had been a law for the relief of agriculturists only, that argument will have had considerable force. Secondly, even in the case of the agriculturist or anybody else, I can quite understand a scheme—not only I can understand it, but I would strongly support a scheme by which the amount of indebtedness, a scheme for debt conciliation, a scheme by which the debt of every cultivator would be estimated, the amount fairly payable by him would be taken into consideration, the amount already realised would be estimated, the amount fairly payable by him would be taken into consideration, the amount already realised by the creditor would also be taken into consideration, and a limit fixed to his indebtedness which would be fair and equal to all: That is very very different indeed from the proposition now before us. It seems to operate like cutting with a hatchet when you require a shaving with a razor or a delicate handling with a surgical instrument! This matter of agricultural indebtedness cannot be dealt with in a summary fashion; it has got to be tackled with a great deal more of courage and imagination than what this clause embodies.

If you enact this provision, you relieve only those cultivators who have had the good fortune of accumulating their interests. You do not give any relief to those who have been paying off their interests duly at a great hardship to themselves by denying themselves many things, by selling off things in the past. These are the people who get no relief, but the other people who have simply managed to get their interest to accumulate to an amount beyond the principal get the advantage. It is neither fair nor at all just in any manner whatsoever. It will give relief to only those persons who are capable of paying. Supposing there is a man worth a lakh of rupees; he may have borrowed Rs. 10,000 and the interest upon his debt may be Rs. 20,000; he is fully capable of paying off Rs. 30,000; but you give him relief by the clause, as he will not be liable to pay as interest more than the amount he has borrowed, *viz.*, Rs. 10,000. So it is an invidious and unfair provision which does not fulfil the purpose of a debt conciliation scheme, which I would welcome. It is merely adopting a summary method of dealing with an evil with which we have not the courage or imagination to fight face to face. In these reasons, Sir, I move this amendment.

Maulvi TAMIZUDDIN KHAN: Sir, I rise to oppose the amendment. I frankly admit that I have not understood the meaning of it and also the aim he has in view. So far as this clause is concerned, he thinks that it will apply to transactions conducted before the Bill is passed——

Dr. NARESH CHANDRA SEN GUPTA: Might I point out, Sir, that that portion has been deleted?

Mr. PRESIDENT: Yes, that is so.

Maulvi TAMIZUDDIN KHAN: Even then, Sir, I would oppose this amendment on principle, because, if this amendment is carried, as I have already said, the effect of this clause will be almost nullified.

Khan Bahadur Nawab MUSHARRUF HOSAIN: Sir, I oppose the amendment. My friend had been giving the House one side of the picture. I want to give it another side of it. It is this: You will generally find that money-lenders, when not connected with some bank, etc., allow the interest to accumulate when they are after some property of the debtor. Their real object is the acquisition of the *zemindari* or some property though it may not be mortgaged; in order to grab that, they allow the interest to accumulate. So, I submit whether it is not right and proper that this House should give relief to that class of people against whom these contrivances have been devised by the money-lenders. So, in order to give relief to this class of people, I think some such clause is necessary. What I suggest is that so far as this clause is concerned, this will help that class of people who receive the money from the money-lenders and the money-lender does not realise the same from them because he has an eye after the property. Now in that case it will not be fair for us to say that we will not give relief to that class of owners of property and save them from the clutches of the money-lenders and give them any benefit under the new Act. We should give relief to that class of persons and, in order to give this relief, this provision has been made in the Bill.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose the motion. Sir, one of the greatest surprises of my life has been Dr. Naresh Chandra Sen Gupta. It is from him that I have learnt in this House many things that are now being done in Russia—the economic planning and various other things. And yet my friend has not been able to find out the reason why, if a man has lent a lakh of rupees and gets 2 lakhs in course of ten years, that should not be sufficient for him. I fear that my friend, who has been moved by the spirit of this amendment so long, has forgotten that part of economics which he was preaching

so long as to the Russian's way of dealing with things and has also forgotten the modern principle by which people say that the man who earns is much more important than the man who merely gets his dividend, whether that dividend is in the nature of profits or in the nature of unearned increment. My friend was quoting the example of a man lending a lakh and getting 2 lakhs instead, and said that it would not be sufficient. Well, if he does not get that, that is another proposition; but you should not take undue advantage of the position of a man when he is in difficulty and has incurred liabilities which he cannot pay now.

I believe this clause will help the landlords also to a very large extent, namely, landlords who are involved in debt. It will not be as the Nawab Sahib has said, that some people will not realise their interest on the ground that they may be able to get their *zemindaries* later on. For them also this section will be helpful. I do not see that this clause will completely wipe away such debtors, because the debtors will be able to say in Court that their creditors have not realised interest from them on such and such a plea, and it would be impossible for the creditors to raise those pleas. Moreover, it is the considered opinion of two Select Committees, and I think the clause should stand. So I oppose Dr. Sen Gupta's amendment.

The motion of Dr. Naresh Chandra Sen Gupta was then put and lost.

Maulvi ABDUL HAKIM: I beg to move that in clause 4, in line 7, for the word "may," the word "shall" be substituted.

The primary reason for my moving this amendment is to compel the Courts to enforce the provisions set forth in this clause. Sir, this is a very important clause, calculated to give great relief to the debtors, but if a Court does not act justly, taking the plea of discretionary power, the poor debtors will be ruined altogether. If you say what is the reason for which a Court may not do justice under this section, I may say, as I said yesterday, that besides the professional usurious money-lenders, there are munsifs and subordinate judges almost in every district who carry on money-lending business in the name of their reliable relations and are ruthlessly realising usurious rates, say, even at the rate of Rs. 3 annas 2 *per cent.* per month even in these hard days! Can we expect that this class of Courts can do justice to the helpless debtors? In my opinion, the Usurious Loans Act of 1918 failed in its operations in respect of the debtors simply because discretionary powers were given to the Courts. If discretionary power is given to Courts by this Act, as was done by the Usurious Loans Act, this Bill also will be a second Usurious Loans Act in Bengal with its abortive results. The word "shall" occurs also in section 3 of this Bill. What is the reason then why this "shall" shall not be placed in this section also? With these words I commend my motion for the acceptance of the House.

Khan Bahadur Maulvi AZIZUL HAQUE: I will not make a lengthy reply, but I say that this is merely a matter of drafting, and I am quite prepared to accept the amendment. But I will only point out this, that the mover has made some remarks in his speech ascribing motives to quarters which do not deserve it. So while I accept his amendment, it is not to be understood that I accept the grounds he has given. I dissociate myself entirely from the remarks he has made.

Babu HEM CHANDRA ROY CHOUDHURI: I rise to oppose this amendment, simply on the ground that the Court should have discretionary power given to it to give relief to those creditors who lent money at a low rate, but could not prove any reasonable ground for having waited so long. In that case, I think the Court should have some discretionary power given to it to give relief to those creditors; hence, the word "may" should not be substituted by the word "shall."

Babu JITENDRALAL BANNERJEE: I am afraid that with the best of good intentions I cannot support the amendment of Maulvi Abdul Hakim. Maulvi Abdul Hakim seems to forget that the object of the present Bill is not to penalise either a person or a class of persons, not to regard the money-lender as simply a man of evil, but to do justice between all parties, and I contend that the end of justice will be utterly frustrated if the Courts are left no discretion in the matter. Throughout the discussion it has been assumed by some of my friends on the other side that the object of this section is an unqualified good. Though no one will suspect that I am guilty of sympathising with the money-lenders, it seems to me that the object of the section is far from being clear. There may be and there are hundreds of cases in which the money-lender has forborne, has refused to come to the Court, not because he wanted the debtor's property, but simply and solely out of consideration for the debtor. But here the result of the amendment will be that such money-lenders will be penalised, not because they have been oppressive and harsh, but because they have not been oppressive and harsh!

Another argument which was adduced some time ago but which seems now to have been forgotten is that one effect of such a section will be to penalise the honest debtor and put a premium on the dishonest debtor. I shall give a concrete example. Suppose a man had taken a loan of Rs. 100 in 1924. In the intervening period of 9 years he has been paying his interest regularly, and the result is that during the last 9 years he has repaid the principal twice over. That man is not protected. The section still compels him, obliges him to pay interest once again; in other words, he will have to pay the principal three times over. But so far as the dishonest debtor is concerned—the man who, during the last 9 years has paid nothing by way of interest and nothing by way of principal—he escapes, he won't have to pay more than just the amount of the principal that he had borrowed.

Khan Bahadur Maulvi AZIZUL HAQUE: But that will have been barred by limitation.

Babu JITENDRALAL BANNERJEE: Thus take it for granted that the dishonest debtor will not have to pay more than twice the amount of the principal, but the honest debtor will have to pay three or four times over. The utility of the section itself is, therefore, questionable; and the only way of remedying possible evils would be to leave a large discretion in the hands of the Court, so that it may see whether justice is being done or not. But if you accept the amendment of Maulvi Abdul Hakim, no discretion will be left in the hands of judicial officers; their hands will be fettered even when they know that the injustice is being done, and they will have no power to protect either the debtor or the lender.

Maulvi ABUL QUASEM: I strongly support the amendment moved by my friend Maulvi Abdul Hakim. The motion also stands in my name. I am really at a loss to understand where the injustice comes in. Mr. Jitendralal Bannerjee has said that because a creditor has forborne or omitted to go to Court out of genuine considerations of convenience of the debtor and has not sought to realise his dues earlier, therefore he should not be penalised. But where is the penalisation? In any case, the Legislature is assuring him by way of interest as much as the principal amount he has lent. Therefore, I do not think any question of injustice comes in at all. He is being guaranteed by law by way of interest as much as he has lent by way of principal. The intention of the clause is that if the Court is satisfied that the money-lender had reasonable grounds for not enforcing his claim earlier—when the satisfaction is there—the Court will not limit the amount of interest to an amount equal to the principal of the loan, but if the satisfaction is not there, then only the Court will so limit the interest. That, I think, Sir, is quite fair. The very underlying principle of this provision, as I understand it, is to give relief to the people who are in sore distress and whose misfortune it has been to borrow money at exorbitant rates of interest. Mr. Jitendralal Bannerjee has spoken of dishonest debtors. I cannot understand him. It may very well be, and often actually is, that if a debtor has not fulfilled his promise of payment, it is on account of sheer inability and of circumstances beyond his control; he has not paid because he simply could not afford to pay; he is not really dishonest, but only appears so for sheer inability to discharge his liabilities, although he wishes heartily he could pay punctually according to promise and prevent his burden steadily growing heavier. You should not assume from non-payment that these debtors are invariably dishonest people. Against that assumption I enter my emphatic protest. Then, Sir, creditors who refrained from enforcing their claims earlier really out of consideration for their

debtors' sad plight, why should they not be content with realising a little less than their exact dues? Otherwise, their so-called consideration would be unmeaning, for the simple reason that it would have to be paid for in full by their debtors. It would then be a regular "paying" consideration, if I may so put it, and therefore no consideration at all. As the hon'ble member in charge of the Bill has said, Sir, the amendment is after all a simple drafting amendment, and should be accepted. If the Court is satisfied that a particular creditor had reasonable grounds for not enforcing his claim earlier, it will not limit the amount of interest. That is a wide discretion. Why should any further discretion be left to the Court? If the House is going to accept clause 6, I do not see any reason why we should not enact the same principle in clause 4. If the effect of the Bill were to restrict its operation to the transactions that take place after the Bill comes into force, then the creditors would take shelter under the Act of 1918 and the Courts would be helpless to grant relief to debtors. But if any people are really in need of relief, it is those who are now being sued for principal as well as interest before this Bill comes into operation. For them relief is sorely needed, and by inserting the word "shall" in place of the word "may," you simply seek to give relief to people in acute distress and thereby serve the real purpose of the Bill.

Maulvi Abdul Hakim's motion being put, a division was taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Ashworth, Mr. G. G.
Bakah, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Birkmyre, Mr. H.
Bottomley, Mr. J. M.
Burn, Mr. M. H.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Chowdhury, Maulvi Nural Absar.
Dain, Mr. G. R.
Edgley, Mr. H. G. A.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkadir, of Dilduar.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hoque, Kazi Emdadul.
Hosain, Nawab Musharruf, Khan Bahadur.
Hosain, Maulvi Muhammad.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Mitter, the Hon'ble Sir Provash Chunder.
Mittar, Mr. S. C.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Ray, Mr. S. N.
Samad, Maulvi Abdus.
Sarker, Rai Sahib Rabati Mohan.
Sen, B. R.
Shah, Maulvi Abdul Hamid.
Steven, Mr. J. W. H.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. W. A. M.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Banerji, Rai Bahadur Keshab Chandra.
Banerji, Mr. P.
Banerjee, Babu Jitendralal.
Basu, Mr. Narendra Kumar.
[illegible] Rai Bahadur Satyendra Kumar.
[illegible]yi, Rai Sahib Sarat Chandra.
Bandy, Maharaja Sris Chandra, of Kasimbazar.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hanuman Prasad.
Rai Mahasai, Manindra Deb.
Ray, Babu Khetter Mohan.
Roy, Babu Jitendra Nath.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Nem Chandra.
Sahana, Babu Satya Kinkar.
Sen, Rai Sahib Akshoy Kumar.
Sen, Rai Bahadur Jogesh Chandra.
Sen Gupta, Dr. Naresh Chandra.

The Ayes being 53 and the Noes 19, the motion was carried.

Kazi EMDADUL HOQUE: Sir, I beg to move that to clause 4 the words "inclusive of cost" be added.

I think this piece of legislation has been undertaken with a view to doing good to the debtors most of whom are unsophisticated cultivators. Now, by limiting the claim of interest to a sum equal to the principal, we may do some good to the debtors and by refusing the cost of litigation we may do a further good to the cultivators, and why do I ask for the refusal of interest? The reason is this. This clause will have no application where the creditors will bring a suit for a loan including interest which is not more than the principal. Then, Sir, this clause will be brought into play only when the claim for interest will amount to a sum greater than the principal. So, if the creditor has already realised more than what he is entitled to get, then of course it is in the fitness of things that he should not get any interest, because if he brings the suit claiming an amount of interest not more than the principal, then he will get his cost and in that case the debtor will not have to come to the Court to contest it; but because he has charged more than what he can get under the law, therefore the debtor will be dragged into litigation, and it is in the the fitness of things that the creditor should not get any cost. Much has been said in connection with many of the amendments that there are dishonest debtors and honest creditors. I do not think that the debtors are dishonest in their temperament—not that I say that there are no dishonest debtors. There may be dishonest creditors also. You can sometimes find a debtor who is dishonest by temperament. But they have been made dishonest by you, because you give loan to them at such usurious rates of interest that it is not in the capacity of the debtors to pay. You advance your money on such unusual rates of interest that it is not within the power of any debtor to pay up his debts, so if the debtors cannot pay off, it is because of the unusual rate you charge. If you are moderate in charging interest, such debtors will be able to pay your interest as well as the principal. You also allow your interest to accumulate so that you may in course of time swallow up all his property. If you do not realise your dues in time, it is not

because you do so out of your comisseration for the poor fellows, but with the object of getting hold of their properties. If you allow your interest to accumulate to a huge amount, it is not possible for these poor people to pay you and then ultimately you will be in a position to swallow up their properties. So you do not show any mercy to the debtors, but on the contrary you think it would be profitable for you to allow the interest to accumulate so that you may come to the Court to enforce your claim. If you enforce your claim in proper time, then of course it will be to the advantage of the debtors; but your advantage lies in not enforcing your claim in proper time but by allowing the interest to accumulate; and then by claiming interest more than the principal you are driving the debtors to contest the suit, and so it is but right that the cost should not be allowed in such cases.

Khan Bahadur Maulvi AZIZUL HAQUE: I would have accepted this amendment but for the good advice given by my friend, Mr. Narendra Kumar Basu. I oppose this amendment on the ground that if we accept it, we would be interfering too much with the discretionary power of the Court. The granting of costs is entirely within the discretion of the Court. So it will not be fair if we made it inclusive of costs when the costs are undetermined. Further, it entirely depends on the sweet will of the parties to say whether the cost should be included or not. I, therefore, oppose the amendment.

Mr. NARENDRA KUMAR BASU: I am glad that Khan Bahadur Maulvi Azizul Haque has definitely said that he is not prepared to accept this amendment, because I asked him *sotto voce* to do so. But I think that as a prospective and beneficial legislator of the province, he might also have said that he is not prepared to accept it on the ground that the amendment does not mean anything. The amendment suggests that to clause 4 the words "inclusive of cost" be added, that is to say, the clause will read thus:—

"Notwithstanding anything in any other Act, where in any suit in respect of any money lent by a money-lender before the commencement of this Act it is found that the arrears of interest amount to a sum greater than the principal of the loan, the Court, unless it is satisfied that the money-lender had reasonable grounds for not enforcing his claim earlier, may limit the amount of such interest recoverable in the suit to an amount equal to the principal of the loan inclusive of cost."

That is how the clause will read, if these words are added, and I submit it will spell absolute nonsense, but that is not the ground on which the Khan Bahadur objects to this motion. He would have accepted this wonderful addition to his wonderful Bill, if I had not

advised him to do it. If that be the limit of, I will not say intelligence but the inclinations of the mover of the Bill, then the Bill stands self-condemned.

Kazi Emdadul Hoque's motion was then, by leave of the House, withdrawn.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that after clause 4 the following be added, namely:—

"*Explanation.*—For the purposes of this section, where a bond or other document evidencing that debt has been renewed after the original loan, the amount shown as principal in the last such document shall be deemed to be the principal of the loan within the meaning of this section."

The reason for my moving this amendment is that there is a certain amount of ambiguity left in the clause as to what the principal of the loan means in the special case where a loan has been incurred by one bond and then at the end of three years the bond has been renewed and this has gone on for some time. There ought to be some explanation which will indicate as to whether the amount shown in the last bond or the amount shown in the original bond should be considered the principal of the loan. I have suggested in this explanation that for the purposes of this section where a bond or other document evidencing that debt has been renewed after the original loan, the amount shown as principal in the last such document shall be deemed to be the principal of the loan within the meaning of this section. For instance, if Rs. 100 has been borrowed and out of that Rs. 50 has been repaid and a new bond has been taken for the remaining Rs. 50, the principal of the loan in this section will mean Rs. 50 shown in the last bond. On the contrary, if the amount has been increased in the renewed bond, that increased amount will be the principal of the loan. If you leave the section as it is, I think that will be the proper interpretation put upon this clause. The principal of the loan will be the principal of the loan as renewed. But to make the position clear and to avoid difficulties, I think it is necessary to add this explanation to the section.

Khan Bahadur Maulvi AZIZUL HAQUE: I am not sure if the sanction of the Governor-General is necessary for this, because under the Usurious Loans Act, there is a definite clause by which the Court has the power to enter into the question of past transactions. The moment we say that the principal of the loan should be the amount shown as principal in the renewed bond, we make it obligatory upon the Court so far as that point is concerned. On the other hand, the Court has the discretion to go into it. I want to limit the amount of the interest

where it is excessive. If a man originally executed a bond for Rs. 50 and then for Rs. 100, then the principal of the loan according to this explanation will be Rs. 100. Therefore, it will be interfering with that section under which the Court has at present the power to enter into the question of past transactions and as such it will require the sanction of the Governor-General. I oppose the amendment on that ground. My second ground is that as a matter of fact it will not be according to the established law. I, therefore, oppose it.

The motion was then put and lost.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, may I explain that amendments Nos. 107, 108 and 109 are not at all necessary, because they suggest that the Court may allow interest on the amount decreed till the recovery of the decretal amount. If you read section 4, you will find that under it the Court shall confine itself to arrear interest only. Therefore, the interest subsequent to the decree till the realisation of the decretal amount is altogether unaffected by the present section. I, therefore, hope my friends will not move the amendments.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I am not convinced by his argument. So I move that after clause 4, the following proviso be added, namely:—

"Provided that the Court may allow interest on the amount decreed at the rate provided in the original bond till the recovery of the decretal amount."

The main object of my moving this motion is that if a decree has been passed by a competent Court, the law of *damdupat* should not be followed, and there are several rulings on this point. The provision of this clause debars a money-lender from recovering as interest more than the amount of the principal of the loan. This restriction will make money-lending less profitable than under the existing law. Even when a decree is passed by a Court it takes many years before the decretal amount is recovered. It will be doing injustice to the money-lender if he is not allowed interest during this period. The rate of interest is being lowered to a considerable extent by this enactment, and the total amount to be realised is also being reduced by this clause. For these reasons I think the Court should be given power to allow interest on the amount decreed till the recovery of the decretal amount.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I oppose this amendment on the ground that it is the existing law which my friend wants to amend. It is only a matter for the Court to decide whether it should allow interest on the amount decreed till the realisataion of the decretal

amount. My friend should not take advantage of the present legislation to amend the existing law. The amendment is redundant and I oppose it.

The motion was then put and lost.

Mr. PRESIDENT: Amendments Nos. 108 and 109 do not arise as they are covered by the decision already arrived at on No. 107.

The motion that clause 4, as amended, stand part of the Bill, was then put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m., on Friday, the 25th August, 1933, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Friday, the 25th August, 1933, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja SIR MANMATHA NATH RAY CHAUDHURI, KT., of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers, and 89 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Electricity scheme of the Calcutta Corporation.

*92. **Mr. SYAMAPROSAD MOOKERJEE:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) whether it is a fact that a comprehensive scheme for the generation of electricity to supply the Calcutta Corporation for power plants, institutions, street lighting, etc., was submitted to Government for necessary sanction approximately two years ago; and

(*ii*) whether it is a fact that the sanction of this pumping and lighting scheme has been held up for the past twenty-four months approximately?

(*b*) Is the Hon'ble Minister aware that the electricity scheme submitted by the Corporation of Calcutta had as its inception the main idea of bringing about an enormous saving in its annual expenditure on electricity consumed for its lighting and pumping loads?

(*c*) Is it a fact that the scheme submitted contemplated a saving of approximately Rs. 6 lakhs of the rate-payers' money?

(*d*) Is the Hon'ble Minister aware that this delay in sanctioning the electricity scheme submitted by the Corporation of Calcutta has meant a possible loss to the rate-payers of Calcutta to the extent of approximately Rs. 6 lakhs a year?

(*e*) Will the Hon'ble Minister be pleased to lay on the table copies of all the correspondence that has passed between the Corporation of Calcutta and the Government of Bengal on the subject?

(*f*) Have Government consulted its Electrical Adviser in connection with the abovementioned scheme?

(*g*) If the reply to (*c*) is in the affirmative, will the Hon'ble Minister be pleased to lay on the table a copy of his report?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) (*i*) and (*ii*) A proposal was submitted with the Corporation letter, dated 14/15th May, 1931. On the 14th November, 1931, Government requested the Corporation to submit the complete data required for the examination of the scheme by the Electrical Adviser. The reply of the Corporation was received with their letter, dated 6th June, 1933, and the Electrical Adviser has stated that the data supplied in it are incomplete and inadequate.

(*b*), (*c*) and (*d*) The Corporation's letter of 14/15th May, 1931, speaks of a saving of Rs. 5 to 6 lakhs each year. No sufficient data have yet been supplied for Government to form an opinion whether this figure was based on facts.

(*e*) Copies have been laid on the Library table.

(*f*) Yes.

(*g*) No formal report was submitted: the Electrical Adviser gave his opinion in unofficial notes.

Maulvi SYED MAJID BAKSH: Did the Electrical Adviser state in what respect the data supplied were incomplete?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I do not remember the details, but that is what he said.

Mr. SHANTI SHEKHARESWAR RAY: Have the Government asked for any further information on the subject?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No. The Corporation's letter is under examination.

Mr. P. N. GUHA: Was there any letter received from the Corporation between the 14th of November, 1931, and their letter, dated the 6th of June, 1933?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: The Corporation was asked on the 14th of November, 1931, to submit complete data and their reply was received on the 6th of June, 1933.

Rai Bahadur Dr. HARIDHAN DUTT: Was any reminder sent to the Corporation?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: No.

Chittagong College.

*93. **Maulvi NURAL ABSAR CHOUDHURY:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) whether the present staff of the Chittagong College contain more than one B.E.S. officer in English; and

(*ii*) whether any other Government college in Bengal with less numerical strength of students contain more than one B.E.S. officer?

(*b*) If the answer to (*a*) (*ii*) is in the affirmative, are the Government contemplating strengthening the English staff in the near future?

(*c*) Will the Hon'ble Minister be pleased to state why the Chittagong College has not got affiliation to teach Honours in Economics, Physics and Chemistry?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) (*i*) No.

(*ii*) Yes, where the number of Subordinate Educational Service lecturers in English is smaller than at Chittagong College.

(*b*) No. As there are three Subordinate Educational Service lecturers in English at the College and the Principal acts as part-time Professor of English, further strengthening of the English staff is not considered necessary.

(*c*) The opening of Honours classes in Physics, Chemistry and Economics awaits the provision of the necessary funds.

Maulvi ABDUL KARIM: With reference to (*c*), when are funds likely to be provided for the purpose?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: When we have a balanced budget, I hope.

Maulvi SYED MAJID BAKSH: Is there a Professor of Economics in the Chittagong College?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice.

Maulvi SYED MAJID BAKSH: How are funds necessary for the opening of the Honours Classes in Economics?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Because if we have to open Honours Classes, we will have to have an additional staff.

Girls' High English School at Faridpur.

***94. Rai Sahib AKSHOY KUMAR SEN:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that there is no Government High English School for girls in the district of Faridpur?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of raising the status of the Government Middle School at Faridpur?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) The answer is in the affirmative.

(*b*) Government regard it as desirable, but in the present state of provincial finances, it is impracticable.

Babu SATYA KINKAR SAHANA: Are there any Government High English Schools for Girls in any districts other than Faridpur?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No.

Hostel for the Hindu students of the Chittagong College.

***95. Rai Bahadur KAMINI KUMAR DAS:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware—

(*i*) that there is no hostel at Chittagong for Hindu students of the Chittagong College;

(*ii*) that the Director of Public Instruction visited Chittagong shortly before and some of the members of the Chittagong Hindu Sava and Chittagong Association waited on him on deputation; and

(*iii*) that the Director of Public Instruction advised the members of the deputation to induce the Hindu gentlemen of Chittagong to keep three or four students in each of their houses according to circumstances?

(*b*) If the answer to (*a*) (*iii*) is in the affirmative, will the Hon'ble Minister be pleased to state whether it is realised that as circumstances now prevail in Chittagong—

(*i*) no Hindu gentleman can be induced to keep a stranger college student in his house; and

(*ii*) a Hindu hostel is an essential necessity for the protection and welfare of the Hindu College students?

(*c*) Are the Government considering the desirability of taking steps for the establishment of a hostel for the Hindu College students as requested by the Chittagong Association and Chittagong Hindu Sava?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) and (*ii*) Yes.

(*iii*) No. The Director of Public Instruction in discussing with the deputations the question of a Hindu hostel informed them that he had suggested to the Principal of the college that he might investigate the possibility of some system of licensed lodgings: and he asked the members of the deputations to co-operate.

(*b*) Does not arise.

(*c*) Not at present.

Rai Bahadur KESHAB CHANDRA BANERJI: When did the Director of Public Instruction visit Chittagong?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Very recently.

Rai Bahadur KESHAB CHANDRA BANERJI: Since his visit have any satisfactory arrangements been made for the accommodation of Hindu students?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Nothing beyond what was there before.

Babu KHETTER MOHAN RAY: What is the number of Hindu students in the Chittagong College?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: 473.

Babu KHETTER MOHAN RAY: Is it not thought necessary to provide hostels or licensed lodgings for such a large number of students?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: At the time when the hostel was closed, the total number of students residing there was 16 out of which 4 were medical students.

Retrenchment Committee Report.

*96. **Rai Bahadur KESHAB CHANDRA BANERJI:** Will the Hon'ble Member in charge of the Finance Department be pleased to state—

(*i*) to what extent effect has been given to the recommendations of the Bengal Retrenchment Committee; and

(*ii*) what is the total amount of savings?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*i*) and (*ii*) The member is referred to the reply to a similar question by Rai Bahadnr Satish Chandra Mukherji given on 8th August last.

Mr. SHANTI SHEKHARESWAR RAY: Is it not the intention of Government to give effect to any other recommendations of the Retrenchment Committee?

The Hon'ble Mr. J. A. WOODHEAD: What other recommendations? I think the reply to the question of the 8th August was that a statement would be placed before the Council showing what recommendations had been accepted by Government.

Mr. SHANTI SHEKHARESWAR RAY: My question is whether it is the intention of Government not to give effect to the other recommendations of the Retrenchment Committee.

The Hon'ble Mr. J. A. WOODHEAD: Beyond those in the statement? Those are still under examination.

Education of the backward classes.

*97. **Rai Sahib SARAT CHANDRA BAL:** Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) the total amount specially spent during the last five years for the education of the backward classes or scheduled castes of Bengal;

(*ii*) the number of scholarships awarded in different branches for the education of the students belonging to the scheduled castes (or backward classes) from the years 1929-33;

(*iii*) the names and castes of such students as enjoyed such scholarships during the abovementioned period;

(*iv*) the names of castes who are included in the list of backward classes;

(*v*) whether the backward classes are now called the scheduled castes; and

(*vi*) if the answer to (*v*) is in the affirmative, what are the names of castes included in the scheduled castes list?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*i*) Approximately Rs. 1,15,121 a year for the education of the educationally backward classes.

(*ii*) A statement is laid on the table. In addition to these scholarships which are exclusively reserved for them, students of the educationally backward classes are at liberty to compete for open scholarships.

(*iii*) A statement is laid on the table, showing the holders of graduate senior and junior scholarships during the years 1929-32. The names of holders of school and other scholarships have not been shown, as the compilation of this information would involve reference to a large number of officers and occupy much time and labour.

(*iv*) A statement is laid on the table showing the castes and tribes hitherto classed as backward for the purposes of educational facilities.

(*v*) and (*vi*) A final list of scheduled castes in Bengal has not yet been published.

Statement referred to in the reply to starred question No. 97 (ii).

NUMBER OF SCHOLARSHIPS RESERVED FOR BACKWARD CLASS STUDENTS.

1 Graduate scholarship of Rs. 30 a month for 2 years.

1 Graduate scholarship of Rs. 30 a month for 1 year, awarded by Dacca University.

2 Graduate scholarships of Rs. 30 a month each for 1 year for student of backward classes and Moslem students, awarded by Dacca University.

3 Law scholarships of Rs. 10 a month each for 2 years reserved for Moslems and backward classes (attached to Dacca University).

6 Scholarships of Rs. 10 a month each for 2 years reserved for Moslems and backward class students of the Ahsanullah School of Engineering.

5 Senior scholarships of Rs. 15 a month each for 2 years.

1 Senior scholarship of Rs. 15 a month for 2 years, awarded by Dacca Board.

5 Junior scholarships of Rs. 10 a month each for 2 years.

1 Junior scholarship of Rs. 10 a month for 2 years, awarded by Dacca Board.

40 Middle scholarships for boys of Rs. 4 a month each for 4 years.

66 Primary Final scholarships for boys of Rs. 3 a month each for 2 years.

36 Primary Preliminary scholarships for boys of Rs. 2 a month each for 2 years.

Statement referred to in the reply to starred question No. 97 (iii).

LIST SHOWING THE NAMES OF EDUCATIONALLY BACKWARD STUDENTS WHO WERE AWARDED GRADUATE, SENIOR AND JUNIOR SCHOLARSHIPS RESERVED FOR BACKWARD CLASSES DURING THE YEARS 1929-32.

Graduate Scholarships.

1932. Surendra Nath Biswas, Faridpur Rajendra College. Namasudra.

1931. Lalit Chandra Biswas, Scottish Church College. Namasudra.

1930. Brahmananda Basak, Scottish Church College. Tantubaya.

1929. Satyaranjan Biswas, Berhampur Krishnath College. Mahisya.

Senior Scholarships.

1932. Haripada Dhali, Vidyasagar College. Mahisya.
Haranath Nath, Chittagong College. Jogi.
Mahananda Das, Faridpur Rajendra College. Mahisya.
Narendra Nath Ray, Bangabasi College. Jogi.
Rakhal Chandra Das, Contai P. K. College. Mahisya.

1931. Paritosh Kumar Nath, Barisal Brojomohan College, Jogi.
Bishnupada Sadhukhan, Ripon College. Oilman.
Bankim Chandra Sardar, Ripon College. Pod.
Sudhirkumar Datta Dalal, Daulatpur Hindu Academy. Tantubaya.
Radhaballav Seal, Scottish Church College. Tantubaya.

1930. Monoranjan Pramanik, Bangabasi College. Tantubaya.
Jaminiranjan Das, Daulatpur Hindu Academy. Mahisya.
Santosh Kumar De, Scottish Church College. Tantubaya.
Surendra Nath Biswas, Faridpur Rajendra College. Namasudra.
Nandalal Nath, Comilla Victoria College. Jogi.

1929. Lalitchandra Biswas, Daulatpur Hindu Academy. Namasudra.
Sachindra Mohan Sarkar, Ripon College. Namasudra.
Kalikrishna Das, Presidency College. Weaver.
Rohitasva Mandal, Scottish Church College. Mahisya.
Asutosh Maity, Contai P. K. College. Mahisya.

Junior Scholarships.

1932. Jitendra Chandra Debnath, Idilpur High English School. Jogi.
Nanigopal Adhikari, Kishoreganj Azimuddin H. E. School. Jogi.
Saitawna Lushai, Rangamati Govt. H. E. School. Lushai.
Abhaypada Sarkar, Jiaganj Edward Coronation Institution. Mahisya.
Brajeswar Majumdar, Serajganj Victoria H. E. School. Jogi.

1931. Upendra Nath Ray, Dehargati Government Aided Iswar Narayan H. E. School. Jogi.
Atul Krishna Mandal, Punra B. K. M. P. Institution. Kapali.
Mohini Mohan Sarkar, Naogaon H. E. School. Mahisya.
Amritalal Nath, Fateabad H. E. School. Jogi.
Gagan Chandra Sarkar, Netrakona Dutt H. E. School. Mahisya.

1930. Kamalesh Chandra Purkait, Diamond Harbour H. E. School. Mahisya.
Narendra Nath Roy, Comilla Zilla School. Jogi.
Balaram Mondal, Diamond Harbour High School. Mahisya.
Chiranjib Purkait, Diamond Harbour High School. Mahisya.
Jaladhar Biswas, Barisal Zilla School. Namasudra.

1929. Dhirendra Kumar Roy, Feni H. E. School.
Chandra Kanta Nath, Banaripara Union Institution.
Madhusudan Mandal, Labpur Jadablal H. E. School.
Dhirendra Nath Chowdhuri, Sitakund H. E. School.
Umesh Chandra Pandit, Kishoreganj Ramananda Union H. E. School.

Statements referred to in the reply to starred question No. 97 (iv).

LIST OF CASTES AND TRIBES IN BENGAL WHICH ARE REGARDED AS BACKWARD CLASSES FOR THE PURPOSES OF EDUCATIONAL FACILITIES.

Class A.

1. Bagdi.
2. Bauri.
3. Bhuinmali.
4. Bhuiya.
5. Bhumij.
6. Chamar.
7. Dhoba.
8. Dom.
9. Dosadh.
10. Hari.
11. Kaora.
12. Chakmas.
13. Garos.
14. Hadis.
15. Hajangs.
16. Koches.
17. Tiparas.
18. Bediyas.
19. Gains.
20. Kaoras (24-Parganas).
21. Lodhas.
22. Kora.
23. Mal.
24. Muchi.
25. Munda.
26. Namasudra.
27. Oraon.
28. Pod.
29. Santal.
30. Sunri.
31. Tiyar.

Class B.

1. Kapalis.
2. Karanis.
3. Dois or Doais.
4. Bunnas.
5. Bahalis (allied to Namasudras).
6. Patnis.
7. Jogis or Naths.
8. Mahishyas or Halia Kaivartta Dases.
9. Rajbansis.
10. Mech.
11. Dhasa.
12. Paharia (*e.g.*, Lepchas, Bhutias, Tamongs and Tibetans).
13. Matial.
14. Jeoni.
15. Kurui Mahatos.
16. Gonds.
17. Pans.
18. Rajwars.
19. Bagals.
20. Korangas.
21. Converts from Haris and aboriginal tribes into Christianity.
22. Lohar.
23. Metia.
24. Khaira.
25. Oilman.
26. Sutradhar.
27. Kharga.
28. Kaloos (Oilman).
29. Tantis (Weaver).
30. Dulay (Palanquin bearer).

31. Kahars (Muhammadan by religion).
32. Jalias (Muhammadan by religion).
33. Chacks.
34. Mugs.
35. Pundarik.
36. Dai.
37. Dhangar.
38. Chain.
39. Kumars (Potters).
40. Rohangia or Roshangia.

Rai Sahib SARAT CHANDRA BAL: With reference to (*i*), are there any special stipends for post-graduate students belonging to the depressed classes?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: There are no other stipends beyond what are mentioned in the statement.

Rai Sahib SARAT CHANDRA BAL: My question is whether there is any provision in the budget for special stipends for post-graduate students belonging to the depressed classes.

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No.

Mr. S. M. BOSE: With reference to (*iv*), what is the difference between Class A and Class B?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Class A consists of aboriginal tribes only. (A VOICE: How are Tantis and Suris aboriginals?) I beg your pardon. I am wrong. I want notice of this question.

Rai Bahadur KESHAB CHANDRA BANERJI: Is this list of backward classes identical with the list of scheduled castes published by Government?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I do not think the final list has been published yet. Our list is a list of backward classes for the purposes of educational facilities. The scheduled castes list must be confined to the Hindus only, while our list includes Buddhists and others.

Babu SATYA KINKAR SAHANA: When was this list prepared?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: In September, 1923.

Babu SATYA KINKAR SAHANA: In Class B, No. 29, I find Tantis have been mentioned as a backward class. Is the Hon'ble Minister aware that persons like the late Professor Gouri Sankar De, who was a Prem Chand scholar, and Sir Brojendra Nath Seal, a great scholar, belonged to the Tanti class?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Exceptions prove the rule.

Rai Bahadur KESHAB CHANDRA BANERJI: With regard to Class A, does the Hon'ble Minister mean that the Namasudras are aboriginal tribes?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have already stated that I was incorrect, and I asked for notice.

Mr. P. N. GUHA: Are the Mahisyas to be considered as a backward class, though many eminent men belong to this caste?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: It was considered so at the time, but I do not know what it is going to be in future.

Reverend B. A. NAG: Scholarships have been specially given to the Tantubaya caste, but why is that caste not mentioned in Class A or Class B.

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Tantis are mentioned, and they are the same as Tantubaya.

Mr. P. N. GUHA: Is there any difference between Tantubaya and weavers?

(No answer was given.)

Babu AMULYADHAN RAY: Is the Hon'ble Minister in a position to interpret Tantubaya in this way?

Mr. PRESIDENT: What is your question?

Babu AMULYADHAN RAY: Sir, while Tantubayas are not mentioned in the list, why were any scholarships awarded to that community?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: That was done by the Inspector of Schools because, I think, Tantis are the same as Tantubayas.

LEGISLATIVE BUSINESS

NON-OFFICIAL MEMBERS' BILL.

The Bengal Money-Lenders Bill, 1933.

The discussion on the Bengal Money-lenders Bill was resumed.

Clause 5.

Babu KHETTER MOHAN RAY: I move that clause 5 be omitted. Sir, stipulation for compound interest is generally insisted on, in order to ensure regularity of payment of interest as it falls due. This is an incentive to repay the loan as soon as possible and acts as a check on undue delay in repayment of the same. Restrictions on compound interest will interfere with legitimate and trade transactions of the province. There are several trades which are carried on in the *mufassal* where different customs and usages prevail which regulate the terms of compound interest. These usages are in vogue for a long time. If we pass the clause 5 in its present form, I venture to say that it will interfere with those usages and affect the transactions in trade which are daily done in the ordinary course of business. We should not disturb the business transactions at a time when the trade is carried on amidst enormous difficulties. Generally, the rate of interest when coupled with compound interest is lower than that of simple interest. I cannot understand why in the present state of things any attempt should be made to restrict compound interest when the restrictions on the rate of interest in general are going to be imposed on all loan transactions. Besides, the drafting of the clause is defective and vague, and will give rise to various interpretations and will be a fruitful source of litigation. The clause, if analysed, resolves itself into two parts: Firstly, no money-lender shall recover interest of any kind, when the stipulation consists of compound interest exceeding 10 *per cent. per annum.* Secondly, no money-lender shall recover interest of any kind when there is a stipulation for compound interest with rests less than six months. Do the framers of the Bill intend that no kind of interest will be allowed to the money-lender if he transgresses the statutory provisions? The question arises what kind of interest, simple or compound, within the statutory limit will be allowable in Law Courts or whether any interest will be allowed? These and other questions are left undecided. In short, the clause is delightfully vague, which will be a fruitful source of litigation. Provisions in an Act must be clear, defined and unambiguous. If the Council wants to put restrictions on compound interest, then let them be put down in clear terms. In my opinion, no restrictions should be imposed on

compound interest, apart from the general restrictions on interest. I, therefore, oppose the clause.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, my friend, the mover of the amendment, was a member of the Select Committee, and it is regrettable that all the points which he mentioned to-day were considered by the Select Committee and that he has brought them up again. I have nothing further to say except that my friend's argument, *viz.*, that compound interest is only utilised for the purpose of acting as an incentive for payments, does not appeal to anybody except himself. If, as a matter of fact, that was the only object and that compound interest was not actually realised either by Court or privately, then that argument would have some meaning. But it is delightfully sweet according to him. I can inform my friend at this stage that there is a motion relating to this clause (132, 133) about the deletion of this phrase "or with rests at intervals of less than six months." In other words, the effect of that amendment, if carried, will be that no money-lender will be able to recover his money by suit at a rate of 10 *per cent.* under a contract providing for compound interest. The question as to what the rests will be will be left to debtors and creditors. I am prepared on consideration to accept that amendment if my friend will only withdraw his amendment. I am informing the House of my intention at this stage, so that the time of the House may be saved.

The motion was then put and lost.

Maulvi TAMIZUDDIN KHAN: With your permission, Sir, I should like to move the two amendments standing in my name, as they are closely connected.

Mr. PRESIDENT: Yes, you have my permission to do so.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that for clause 5 the following be substituted, namely:—

"5. No money-lender shall recover by suit any interest in respect of any loan made after the commencement of this Act under a contract which provides for the payment of compound interest."

I also beg to move that for clause 5 the following be substituted, namely:—

"5. No money-lender shall recover by suit compound interest at a rate exceeding 10 *per cent. per annum* with rests at intervals of less than six months, or simple interest at a rate exceeding 18¾ *per centum per annum* in respect of any loan made before the commencement of this Act under a contract which provides for the payment of compound interest."

Sir, so far as my first amendment is concerned, its object is to abolish compound interest as regards future transactions. Everyone knows that compound interest is a great evil; it is an unmitigated evil, because the debtor when he enters into the contract never realises the serious implications and the disastrous consequences that must follow; compound interest works like a venomous serpent in the dark and the victim is taken all unawares. It will also be seen from the opinions received by Government on the provisions of the Bill, that many high officials gave their opinion to the effect that compound interest should be abolished. I may refer in this connection to the opinion of the District Judge of Bakarganj, who says:—

"I should on the whole prefer to see compound interest abolished, since I believe the agreement involved in a contract to pay it is very frequently misunderstood or at least is not appreciated by the borrowers."

Then, there is the opinion of the Commissioner of the Burdwan Division—Mr. L. B. Burrows—which is very emphatic on this point. He says:—

"I think it is a pity that compound interest is not being forbidden altogether. It is true that, in theory, compound interest is no worse than simple interest and that a debtor may legitimately be penalised for delaying repayment and depriving the creditor of funds which can, perhaps, be used to better advantage, but the large majority of borrowers in India, and particularly the agriculturists, are ignorant and do not understand the intricacies of compound interest calculations complicated, as they usually are, by comparatively short rests."

There are other officers who are also of opinion that compound interest should have been altogether abolished. If my first amendment is carried, the opinion of these officers will be given effect to, as it will make compound interest illegal, and no interest on a loan which provides for compound interest will be recoverable.

Sir, so far as my second amendment is concerned, it proposes that a new clause be inserted for clause 5. Here I have dealt with past transactions. It will be unfair to disallow compound interest or any interest whatsoever so far as past transactions are concerned. So far as those transactions are concerned, compound interest at the rate of 10 *per cent. per annum* with rests at intervals of less than six months, or simple interest at a rate not exceeding 18¾ *per cent. per annum* may be allowed. In this connection, I might mention that it has already been decided by the House in connection with a former clause that interest in the case of unsecured loans should be 25 *per cent. per annum*. I may, therefore, agree to accept that rate in this clause too. With that consequential change I hope my amendment will be accepted.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I oppose these motions on the ground that the Bill, as drafted, will include banks outside the jurisdiction of the Original Side of the Calcutta High Court, and as banks charge a certain amount of compound interest on overdrafts and as they are included in this Bill, I think it would be improper to do anything which would affect their legitimate business of banking. On that ground, Sir, I oppose the amendments.

The two motions of Maulvi Tamizuddin Khan were then put and lost.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that in clause 5, line 1, before the word "interest" the word "compound" be inserted.

Sir, it will be in the recollection of the House that so far as this clause is concerned it is absolutely a new one, added by the second Select Committee. In the Report of the First Select Committee, I may remind the members of the House that it was clause 10A. It ran thus:—

"No money-lender shall be entitled to recover compound interest on any loan made after the commencement of this Act under a contract which provides for the payment of interest at a rate exceeding 10 *per cent. per annum* or for rests at intervals of less than six months."

This Bill was circulated for opinion by the Government and, as far as I have been able to judge, there was not a single opinion received by Government, not one opinion which was to the effect that the provision should go so far as to the stoppage of all interest above 10 *per cent.*—in fact, I am not betraying any secrets when I say that in the synopsis of the opinions received by Government there was not one which said that the stoppage of simple interest should be the penalty. In fact, an amendment like that was not even suggested at any time before; it was suddenly sprung upon the Select Committee at a very late stage. I submit, Sir, that there is absolutely no evidence of any public body or any individual in the country, official or non-official, who said that if there is a provision for compound interest or high rates of interest, all kinds of interest above 10 *per cent.* shall cease. I submit, Sir, that it is not proper to enact such a drastic provision. As a matter of fact, it was not in the Bill when it was introduced; it was not in the Bill, as reported by the First Select Committee, which was sent back by the House on recommitment to the Second Select Committee. It is improper to say that because there is a provision for compound interest, no money-lender shall recover even simple interest at a rate exceeding 10 *per cent.* I submit, Sir, that the House has already accepted clause 3 which says that the presumption that the rate is usurious would only apply in the case of simple interest when

it is over 15 *per cent.* for secured debts and over 25 *per cent.* for unsecured debts; and I think it would be contradiction in terms to say that if there is a provision for compound interest the money-lender is not entitled even to simple interest at 12½ *per cent.* or 15 *per cent.* It, therefore, seems to me that the House will be stultifying itself if it accepts the clause which goes much further than what has ever been intended. Such a provision was never in the contemplation of the mover of the Bill nor of anybody when this clause was drafted, and I do not know who drafted it in this way.

As I have pointed out in my Note of Dissent, it is probably due to reading the opinions given by the judicial officers wrongly. I have tried to read up the opinions of the judicial officers and the so-called broad-sheets broadcast by Government to the members of the Select Committee and I have failed even now to discover one single opinion that there should not be simple interest allowed at the bond rate. I submit it is unjust and, as I have said, inconsistent with the previous provisions of the Bill as accepted by the House. I, therefore, commend my motion to the acceptance of the House.

Mr. SHANTI SHEKHARESWAR RAY: I am not a lawyer, but I cannot accept the interpretation of the clause as given by Mr. Narendra Kumar Basu. The clause reads: "No money-lender shall recover by suit interest of any kind at a rate exceeding 10 *per cent. per annum*, etc." There you will find that there is a provision for interest at the rate of 10 *per cent.* My friend says that when a man contracts for compound interest in contravention of the provision of this clause he will not be entitled to any interest. Well he will get an interest at the rate of 10 *per cent.* If, however, the contract is not for compound interest, then, of course, he does not come within the purview of the clause. I think when we are going to discourage the system of compound interest it is desirable that some sort of penalty should be provided for. In this case the man who contracts for compound interest in contravention of this clause loses the compound interest. That is all; but he is not deprived of interest altogether; he gets simple interest up to 10 *per cent.*

Khan Bahadur Maulvi AZIZUL HAQUE: I feel that my friend has forgotten certain broad features of the broad-sheets, namely, that there are good opinions also that compound interest should be altogether abolished. My friend Maulvi Tamizuddin Khan has just now referred to the evidence of certain officers in which they really deplore that this compound interest should at all find a place in the statute book. Therefore, in the Select Committee we had to make a compromise between the opinions which said that compound interest should be altogether abolished and those that compound interest should be

retained, and the best form that could be devised is section 5. This is, however, not applicable till after the commencement of the Act. After the commencement of the Act it is well known that the law intends that the debtor as well as the creditor must make their minds clear at the outset as to the nature of the interest, and I think it is eminently desirable in the interest of everybody concerned. My friend has admitted that when a contract has been entered into, the ultimate effect should be definitely known to both the parties. That being so, the creditor and debtor must know as to whether he is going to have compound interest or not. If he goes by simple interest this law will permit him to go much higher, but if he goes by compound interest the law lays down a low figure for the definite reason which has been explained by Mr. Shanti Shekhareswar Ray, that while we do not intend at this stage to abolish compound interest, yet for obvious reasons we want to discourage it, so that the relation between the money-lender and the creditor will be only on the basis of simple interest which will be perfectly intelligible to both of them. For this reason, if a man with the law before him and knowing that, as a matter of fact, compound interest over 10 *per cent.* is not permissible, even then enters into a contract for compound interest, it is for him to take that risk. In view of the fact that such a contract is not of a retrospective character and that he can also go by simple interest, I do not see why there should be any difficulty if the Council thinks that as a matter of fact compound interest in this form should be discouraged and the scope of its activities should be reduced to the minimum.

Mr. Narendra Kumar Basu's motion being put, a division was taken with the following result:—

AYES.

Banerji, Rai Bahadur Keshab Chandra.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Babu Kishori Mohan.
Das, Rai Bahadur Satyendra Kumar.
Dutt, Rai Bahadur Dr. Haridhan.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Poddar, Mr. Ananda Mohan.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Roy, Mr. Sarat Kumar.
Roy, Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sen, Rai Bahadur Jogesh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Hassan.
Ashworth, Mr. C. G.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Mr. P.
Bannerjee, Babu Jitendralal.
Bottomley, Mr. J. M.
Chowdhury, Haji Badi Ahmed.
Choudhury, Maulvi Nurul Absar.
Dain, Mr. G. R.
Edgley, Mr. N. G. A.
Eusufji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dhaka.

Gilchrist, Mr. R. N.
Gladding, Mr. D.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. S. P.
Hooper, Mr. S. G.
Hoque, Kazi Emdadul.
Hossain, Nawab Musharruf, Khan Bahadur.
Hussain, Maulvi Muhammad.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Nag, Reverend B. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Philpot, Mr. H. C. V.
prentice, the Hon'ble Sir William.
Rahman, Mr. A. F. M. Abdur-.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemanta.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. S. N.
Samad, Maulvi Abdus.
Sen, Rai Sahib Akshoy Kumar.
Sen, Mr. B. R.
Shah, Maulvi Abdul Hamid.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

Ayes being 14 and Noes 49, the motion was lost.

Babu HEM CHANDRA ROY CHOUDHURI: May I move my motion No. 125?

Mr. PRESIDENT: I thought that your motion was more or less consequential, but if you can advance any argument to justify your assertion that it is self-existent, you may move it.

Babu HEM CHANDRA ROY CHOUDHURI: The previous amendment refers only to the disallowance of compound interest, but my motion refers to the omission of the words "of any kind" of interest, whether simple or compound.

Mr. PRESIDENT: All right, I have no objection to your moving the amendment in that case.

Babu HEM CHANDRA ROY CHOUDHURI: Sir, I beg to move that in clause 5, in lines 1 and 2, the words "of any kind" be omitted.

Under this clause, if these words be retained, then both kinds of interest, whether simple or compound, will be refused by the Court. But as provided in clause 3, which has been accepted by the House, the simple interest allowed is 15 *per cent.* in the case of secured loans and 25 *per cent.* in the case of unsecured loans. Hence, there is no reason why simple interest should not be allowed at a rate higher than 10 *per cent.* This clause is meant for loans contracted after the commencement of the Act and shall apply to contracts which provide for compound interest only. If there is a contract for compound interest at a rate higher than 10 *per cent.*, then it may be reasonable to deprive the creditor of compound interest at that rate, but there is no reason why he should not get simple interest.

Mr. SARAT KUMAR ROY: Sir, I support this motion. It is common experience that where the period of the loan is pretty long, stipulation for simple interest, though at a high rate, is more advantageous to the borrower than the stipulation for compound interest, though the rate is low. Hence, such alternative terms may prove advantageous to either parties.

Under the circumstances, I do not find any reason why parties should be restrained in the manner contemplated by this clause of the Bill. I think they should be given free choice in the matter. Hence, I support the motion.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I do not see how my friend's amendment will help him at all. I have not yet known that interest means compound interest. It is not laid down anywhere, and if my friend's proposal is properly interpreted, he will remain exactly in the same position as before. On the contrary, my friend's amendment if carried will make it unintelligible, and so I oppose it.

Babu Hem Chandra Roy Choudhuri's motion was then put and lost.

Rai Bahadur SATYENDRA KUMAR DAS: I beg to move that in clause 5, in line 2, for the figures and words "10 *per cent. per annum*," the figures and words "12 *per cent. per annum* for secured loans and 24 *per cent. per annum* for unsecured loans" be substituted.

Sir, I speak from my own experience that even the Co-operative Banks drawing finance from the Government and other depositors at 7 *per cent.* or more lend at 12 *per cent.* with six monthly rests. The percentage is too low a rate to tempt lenders as a result that trade and agriculture will suffer due to shrinkage of financial facilities. Sir, is this Bill, rather this clause, really calculated to relieve indebtedness? And can legislation like this merely improve the situation? No amount of legislation, however drastically limiting usury, alone can solve the problem. There is so much dearth of money that it cannot touch even the fringe of agricultural indebtedness. I again repeat, as is revealed by the Banking Inquiry Committee—let Government come forward with constructive propositions for setting up land mortgage banks throughout the length and breadth of the country. This sort of legislation is a poor remedy if remedy at all. One result of this will be, if this clause be embodied in the Act, that money-lenders will see their way to get behind the limitations imposed by the proposed clause and many surreptitious practices in the execution of bonds will follow. Sir, unremunerative rate will also direct money-lenders' interest elsewhere than in insecure agricultural investments. Where then will the peasantry go? The situation will be a desperate one. On these grounds I would suggest deletion of the clause.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am prepared to accept this if my friend will answer one question. I shall give him 10 minutes' time to do so.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Has any member any right to give 10 minutes' time to another member for answering a question?

Khan Bahadur Maulvi AZIZUL HAQUE: If my friend in 10 minutes' time can answer the proposition which I am putting forth, I shall be prepared to accept his amendment. The proposition is—What will be the effect of a loan of 100 rupees, if my friend lends it at 24 *per cent.* with monthly rests. How long will the debtor have to wait to have his accounts calculated? It is a simple proposition, and I shall be prepared to accept the amendment if he can give me an answer now, unless of course my friend has a code in his house in which these things are readily calculated. I think 24 *per cent.* on an unsecured loan, if it is compound, will come to an enormous amount. I shall here refer to what a judicial officer from Dinajpur has written: A sum of Rs. 299 was borrowed with an interest of 2 *per cent. per annum.* The stipulation was that the interest will be compounded at the end of each month; the total amount came to Rs. 4,047 in four years' time. I feel, Sir, that that is enough for me to say that my friend's proposition need not be taken seriously, and I oppose the amendment on the ground that it will have the effect of practically providing for extortionate interest on loans.

The motion was then put and lost.

Babu HEM CHANDRA ROY CHOUDHURI: Sir, I beg, with your permission, to make a slight alteration in my amendment. I I want to substitute the figures "12½" for the figures "15."

Mr. PRESIDENT: Yes, you can do that.

Babu HEM CHANDRA ROY CHOUDHURI: Sir, I beg to move that in clause 5, in line 2, for the figures "10," the figures "12½" be substituted, and after the words "*per annum,*" the words "in the case of a secured loan or 18¾ *per cent.* in the case of an unsecured loan" be inserted.

My intention in moving this amendment is to discriminate between secured and unsecured loans, and I think it will be sufficient for my purpose if I simply refer the House to a few opinions of District Judges

and Commissioners of Divisions. Sir, I would first refer to the opinion of the District Judge of Noakhali. He says:—

"As regards clause 10A (which is clause 5 of this Bill), I think that a differentiation is necessary in the case of transactions based on compound interest such as appear in clause 14 (now clause 3) of the Bill. I would put 12½ *per cent.* for 10 *per cent.* in the case of secured loans and 18¾ *per cent.* in the case of unsecured loans in view of the fact that the usual Co-operative Bank rate of interest in rural areas is 12 *per cent. per annum*, and that unless the rates are raised as above, the proposed legislation is likely to upset the existing system of rural economy and tend to divert from the *mufassal* the capital which is so essential for its needs."

Then, Sir, I shall read the opinion of the District Judge of the 24-Parganas. He says:—

"In my opinion 12½ *per cent.* should be substituted for 10 *per cent.* in the sections, because compound interest is in itself not unfair, illegal or open to objection. It is an incentive to punctual payment. The maximum period of rest as fixed by the section, *viz.*, six months, seems to be unobjectionable."

Then, Sir, I would quote the opinion of the Commissioner of the Chittagong Division. He says:—

"I oppose the limitation of compound interest to the extent proposed in clause 10A, but I agree that rests of less than six months should be prohibited. Any limitation of interest that may be considered necessary should be made under clause 14A (clause 3 of the present Bill)."

Then, Sir, there is the opinion of the District Judge of Pabna and Bogra which is as follows:—

"Clause 10A limits compound interest to 10 *per cent. per annum*, irrespective of the nature of the loan. There is no reason why no discrimination should be made between secured and unsecured loans, especially when such distinction between two categories of loans has been drawn in clause 14."

I think these opinions are sufficiently clear in favour of making a distinction between secured and unsecured loans and for raising the percentage from 10 to 12½ in the case of secured loans and for providing 18¾ *per cent.* in the case of unsecured loans. In this view of the matter I commend my amendment to the acceptance of the House.

Mr. SARAT KUMAR ROY: Sir, it is well known that even the Calcutta bankers do not lend money at less than 8 to 9 *per cent.* interest upon Calcutta properties, and they under the law may obtain quarterly and even monthly rests of interest.

I have already submitted before the House that in the rural areas the securities offered are much inferior in character. They are not half so good as Calcutta properties, and I think in every case the rate of interest ought to be commensurate with the risk involved. Hence, it appears to me that nothing less than 12½ *per cent.* can prove sufficient in the *mufassal*.

In case you fix the rate at 10 *per cent.*, I am afraid you will render capitalists still more shy than they are at present.

We all know what difficulty the borrowers now find in raising money upon *mufassal* properties. I am, therefore, of opinion that no further hindrance should be imposed upon them.

I, therefore, submit that a limit of 10 *per cent.* would be too low; and I propose that it ought to be raised as the mover of the motion suggested.

Khan Bahadur Maulvi AZIZUL HAQUE: I have made it sufficiently clear in connection with the amendment of Rai Bahadur Satyendra Kumar Das why it is not possible to accept the suggestion of my friend, namely, to substitute 12½ *per cent.* for 10 *per cent.* in the case of a secured loan and to provide for 18¾ *per cent.* in the case of an unsecured loan. All I say is that it would hardly be a useful legislation if anything in the way of unsecured loans is brought in. We are leaving unsecured loans alone in which high rate of interest may be charged. This legislation will bring about a state of affairs by which only simple interest will be charged in case of secured loans. In that view I oppose the motion.

Babu Hem Chandra Roy Choudhuri's motion was then put and lost.

Rai Bahadur SATYENDRA KUMAR DAS: I beg to move that in clause 5, in lines 2 and 3, the words "or with rests at intervals of less than six months" be omitted.

I am glad that the mover of this Bill has assured us that he is going to accept this my modest demand. When there has been a limitation of interest both for secured and unsecured loans, it is quite meet and proper that there should no limitation as to the intervals of rests. With these few words I commend my motion to the acceptance of the House.

Khan Bahadur Maulvi AZIZUL HAQUE: I do not think that any argument is needed. On reconsideration, I feel that this portion of the clause should be deleted. It will not affect the scheme of legislation, and there is much in sections 3 and 4 to counteract the evil. This is the first piece of legislation of its kind, and we should proceed cautiously. If it is seen that there is much hardship, it will be open

to the House as a result of experience to consider what should be done. For the present, I consider that this amendment should be accepted.

The motion was then put and agreed to.

Mr. NARENDRA KUMAR BASU: I beg to move that to clause 5 the following be added, namely:—

"excepting in the way of penalty."

What I want to draw the notice of the members of this House to is this, that unless these words are added, it would work injustice in a very large number of cases. As those of my friends in this Council who are lawyers have seen and known, there are any number of bonds in which there is no stipulation for compound interest, and as a matter of fact no compound interest is charged in those bonds, but at the end there is a penalty clause. Suppose you do not pay interest for two years, then your interest will be compounded. Contracts like that are very few, and they are simply meant to discourage deferring payment of interest. The effect of not amending the clause will be that supposing there is a clause allowing 12½ *per cent.* simple interest only, well in that case under the law, as it now stands, the payment of that interest will be enforced; but if there is a penalty clause at the end, which I need hardly remind the lawyers it may be at the discretion of the Court either to enforce or not the man has to lose his simple interest of more than 10 *per cent.* I do not know whether it is the intention of the House that the words "compound interest" should be tabooed or, as we say in our Bengali language, it should be treated as the *bhashur* of the sister-in-law, the bond. I submit that it would be rather unjust that because there is a penalty clause at the end of the bond for simple interest and when there is no intention of realising compound interest, the interest at 12½ *per cent.* will be cut down to 10 *per cent.* With these words I commend my motion to the acceptance of the House.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I have very carefully considered my friend's amendment. I feel that something has got to be said on this matter. If my friend will read the language of the section, he will see that there is no fear on that score. My friend's intention is that where it is not stipulated that compound interest will be realised, there should not be any bar to the Court granting simple interest. If my friend will read the last line of the clause, he will see that it will apply only where there is provision for the payment of compound interest. If, however, my friend intends that compound interest should be realised in the way of penalty, then I am not prepared to accept the amendment.

Mr. NARENDRA KUMAR BASU: Sir, would my friend accept a fresh amendment, if I move it, with your permission?

Khan Bahadur Maulvi AZIZUL HAQUE: No.

The motion was then put and lost.

Rai Bahadur SATYENDRA KUMAR DAS: I beg to move that after clause 5, the following proviso be added, namely:—

"Provided that the Court may allow interest on the amount decreed at the rate provided in the original bond till the recovery of decretal amount."

Sir, I already pointed out yesterday while moving the amendment for deletion of clause 4 and my amendment No. 107, that it was very bad to force the hands of the Court to resort to the rule of *damdupat* in passing decree against debtors on the grounds of inconsistency and other reasons in the interest of the agriculturists. Sir, unless such discretionary power is given to the Court, it will cause more injury to the debtors than to the creditors, as passing of such a clause without such a provision will scare away the *mahajan* from giving loan to the needy agriculturists, at a time when they badly need loan from *mahajans*. In the absence of Land Mortgage Banks, in the absence of sufficient funds of the Co-operative Credit Societies for giving relief to the agriculturists by loans, it will be most unwise to oppose insertion of such a provision as I have suggested.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, in spite of the very serious note of warning as to the danger of not having a provision like the one proposed, I oppose the amendment on the ground that it is entirely a matter for the Court to decide, and I do not think this House ought to legislate on this point. I oppose the amendment.

The motion was put and lost.

The motion that clause 5 as amended stand part of the Bill was then put and agreed to.

Clause 6.

Rai Bahadur KESHAB CHANDRA BANERJI: I beg to move that clause 6 be omitted.

It appears that very stringent terms are sought to be imposed on the money-lender evidently for no fault of his own. If the provision contained in clause 6 of the Bill is carried, it will operate very harshly on the money-lender. We often find that a large amount of money due to the money-lender accumulates owing to the dilatoriness on the part of the debtor. If the debtor had taken a little interest in paying

his dues earlier, there would have been no trouble so far as he is concerned. It is also a matter of common experience that the debtor, in spite of insistent demand and request from the money-lender, tries to avoid payment on some pretext or other. In this way a large sum of money accumulates, and the money-lender sometimes thinks that if he has to enforce the terms of the bond, it would entail great hardship on the debtor. For these considerations, the money-lender does not take any step for the recovery of his dues by taking recourse to a Court of law. If this clause is accepted by the House, it will mean unnecessary hardship and trouble for the money-lender.

Besides that, if it is accepted, it will result in an unnecessary multiplication of suits, and that will not benefit the debtor but will benefit men like my friend the Member in charge of the Bill—I mean to refer to the members of the legal profession.

Khan Bahadur Maulvi AZIZUL HAQUE: They are better people than the money-lenders.

Rai Bahadur KESHAB CHANDRA BANERJI: Certainly not, I dispute the fact; because in many cases the lawyers fleece their clients more than the money-lenders.

Mr. SNANTI SHEKHARESWAR RAY: They have the advantage accruing from both classes of people, *viz.*, the money-lenders and the debtors.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, for these reasons, I strongly urge the acceptance of my amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am afraid the House has already committed itself to the principle of *damdupat*. This section will be operative as regards future loans. In this connection, I would very seriously warn my friends of the danger with which we are faced in Bengal, if we do not tackle this problem in right earnest. After all, Sir, we have to deal with a class of people who come here from elsewhere. It will, perhaps, be interesting to my friend to know that in the census of 1931, the number of "Kabuli" money-lenders was shown as 1,795. It will be surprising to note that at present only the people of Afghanistan proper in Bengal number about 4,000; in addition, we have got the Frontier people who number another 2,000; so the total number of these people now is about 6,000, whose ordinary rate of interest far exceeds the prescribed rates.

(MR. SHANTI SHEKHARESWAR RAY: Why not legislate against them?) You can do it, but let us introduce some legislation by which the poor agriculturists, labourers, and small wage-earners may be saved. After carefully studying the facts about the movements of these "Kabulis," I find that the most interesting feature is that their number has not increased in the towns, but in the rural areas. I may further say, Sir, that it is also an interesting feature of the economic life of this province that the total number of "Kabulis" and money-lenders in the whole of Bengal is about 50,000. And out of this number, you will be surprised to learn that 20,000 are concentrated in the four most fertile districts of Bengal, *viz.*, Dacca, Mymensingh, Faridpur, and Bakarganj. Whatever little advantage the poor agriculturists and labourers get out of the land is taken away by the money-lenders in these four districts. It is a problem serious enough, and I do not know whether this fact is responsible for the vehement opposition offered by the representatives of the Dacca district in this matter.

Babu KHETTER MOHAN RAY: Sir, when this Bill was originally introduced, it was given out by my friend, the member in charge of the Bill, that his object was to remove the Kabuli nuisance, that is to say, that it was intended against those people who extorted money from the poor villagers by show of force. But I do not know, Sir, how the law of *damdupat* will have any effect on the Kabuli menace.

Sir, this clause embodies the principle of *damdupat*. The rule of *damdupat* is one of the relics of the ancient prejudice against all interest which looked upon it as an undue exaction and overlooked the fact that it is no more unreasonable to levy a charge for use of money than to charge rent for use and occupation of land or to charge wages for labour. This rule of *damdupat* still lingers in some limited parts of India and is applicable only where the parties are Hindus. This rule is based upon a custom of usage which has force of law. *Damdupat* was recognised as a general law in ancient India. But with growth of civilisation and with the development of trade and commerce, it has ceased to exist as a general law; wherever it is found to exist, it has to depend on certain usage or custom for its existence. This rule of law disappeared because it interfered with the development of commerce and industries. It will not help the debtor; it will rather do him injury. The creditor, for fear of losing his interest, will sue him for his money whenever he will find arrears of interest are going to exceed the principal. By enacting this piece of law which was in vogue in uncivilised or semi-civilised societies, you are going to penalise the creditor for no fault of his. It is on account of the default of the debtor that the arrears of interest accumulate in excess of the principal. In the present state of society in which trade and commerce are flourishing, the rule of *damdupat* should not find place in any statute.

Nowadays even an ignorant or illiterate debtor is considered generally to be capable of understanding the implications of a contract in which he enters and can realise the consequences of failure to perform the contract. Of course, we all desire that every borrower should understand all the implications of a contract which he enters with eyes open. Nowadays it is not difficult to obtain independent advice or legal advice. But it is almost impossible to devise any machinery that he will always understand the implications of a contract. I do not think that an ignorant borrower will be safeguarded by putting restriction on interest exceeding the principal.

With these observations I support the amendment moved by Rai Bahadur Keshab Chandra Banerji.

Rai Bahadur Keshab Chandra Banerji's motion was then put and lost.

(The Council was then adjourned for 15 minutes.)

(After adjournment.)

Mr. ANANDA MOHAN PODDAR: I beg to move that for clause 6, the following be substituted, namely:—

"6. No Court shall in respect of any loan made after the commencement of this Act, in which the principal does not exceed Rs. 500, decree on account of arrears of interest a sum greater than the principal of the loan."

The object of the Bill is more or less to protect the agriculturists. But the Bill as it stands will affect all classes of debtors and creditors for better or for worse. This modified form of the rule of *damdupat* will affect all classes of debtors and creditors whether they be Joint Stock Companies, Loan Offices, Land Mortgage Banks, Courts of Wards, etc. Mercantile firms and industrial concerns will also be hard hit by it. Everybody, irrespective of the class of debtors, will be prevented from taking long term loans. There is no safeguard in the Bill to give protection to these classes of debtors and creditors.

The agriculturists usually do not take any big loan. Their loans seldom exceed Rs. 500, so if the rule is applied in case of small loans, say up to Rs. 500, the purpose of the Bill will be served. Big loans are mostly secured loans, and in that case the creditor usually waits till the period of limitation to give facility to the debtor, and there is no reason why the creditor should be deprived of his legitimate dues.

With these words I beg to commend my motion to the acceptance of the House.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose the amendment on the ground that it would make an arbitrary distinction between one class and another and one interest and another, which is not desirable, specially when we are approaching the problem from the point of view of the general welfare of the people of the province. After all, suppose one man takes a loan of Rs. 499 and another man a loan of Rs. 500; let my friend consider what heart-burning and hardship will be caused to the man who takes a loan of Rs. 500. The man who has taken the loan of Rs. 499 will come under this Act, whereas the man who has taken the loan of Rs. 500 will not. I feel that an Act of this nature ought to give relief also to those who take a large amount of loan. One of my friends was telling me: Suppose a man takes a loan of Rs. 1 lakh as principal and his interest amounts to more than Rs. 2 lakhs, why then should he not be allowed to take it? I at once told him that a man who gives a loan of Rs. 1 lakh should be satisfied with Rs. 2 lakhs, and I think every man with common sense will say that that man ought to be satisfied. But in the matter of interest I would like to know where is a business in the world in which you can get a lakh of rupees out of a lakh you invest. I think that should be enough. So I hope after this explanation the member will not press his motion but withdraw it.

The motion was then put and lost.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 6, line 3, after the word "sum," the following be added, namely:—

"which, added to any amounts already paid as interest, is."

This clause 6 incorporates the law of *dumdupat* with regard to future transactions. The clause says that no Court shall decree on account of arrears of interest an amount greater than the principal. But if the clause stands as it is, then it will be inequitable in regard to certain debtors. In this respect I would endorse fully the argument my friend Mr. Narendra Kumar Basu made in connection with a similar clause with regard to past transactions, that it will be putting a premium on refractory debtors, if the clause stands as it is in the Bill. I would try to clear up my point by citing an imaginary example. Suppose the Raja of Dacca borrows a lakh of rupees from the Nawab of Darbhanga at a rate of interest amounting to 25 *per cent. per annum*, and my friend Khan Bahadur Maulvi Azizul Haque borrows the same amount from my friend, Mr. Ananda Mohan Poddar, at the same rate of interest. The Khan Bahadur does not pay a single pie for 8 years during which period the interest amounts to 2 lakhs in both cases. The Raja of Dacca, however, has paid Rs. 90,000 in these 8 years on account of interest. Now if my amendment is not accepted, and if both the creditors go to Court, the Nawab of Darbhanga, as well

as Mr. Poddar, will get a decree for rupees one lakh each, on account of interest. This is clearly inequitable. The Khan Bahadur who has been a recalcitrant debtor will get off with paying only one lakh as interest, whereas the Raja of Dacca will have to pay in all as interest Rs. 1,90,000. Therefore, I think, to obviate inequities like these, my amendment should be accepted; that is, that the interest that may have been paid before the date of the suit should be taken into account in passing the decree.

Khan Bahadur Maulvi AZIZUL HAQUE: In spite of the most illuminating example and in spite of the very great monetary disadvantage I have been put to, I am afraid I cannot accept the amendment. My friend will kindly note the language of sections 6 and 4. They are almost on parallel lines. In clause 4, there is some scope given to the Court where it is satisfied that the money-lender had reasonable grounds for not enforcing his claim earlier. We are not giving in section 6 any discretion to the Court, with the result that, where a money-lender had reasons to enforce his claim earlier save in cases of economic depression, then the difficulty will be that, supposing the money-lender has kept his limitation safe from time to time owing to economic depression and an arrangement has been made between the money-lender and the debtor, it will be a great hardship on the money-lender to deprive him of that amount of money which he has already received. In other words, if the Nawab of Darbhanga has permitted the Raja of Dacca to pay a certain amount from time to time with a view to accommodate the present economic depression by which the Dacca estate is not getting its collection, then the only thing will be to penalise the Nawab of Darbhanga for accommodating the Raja of Dacca. At the same time, if it is found that there has been any such payment, it is to be excluded, and it is open to the money-lender and the debtor to come to the Court when the money-lender finds that the debtor is not able to pay. I feel that this clause will lead to a certain amount of understanding and adjustment between the money-lender and the debtor; otherwise, it would be an arbitrary rule. For example, if a man lends Rs. 90,000 and waits for 10 years, then for good reasons he is entitled to a certain amount of interest. In these circumstances, we would leave the clause as it stands and await the result of experience for a few years.

The motion was then put and lost.

Rai Bahadur SATISH CHANDRA MUKHERJI: I beg to move that the following be added at the end of clause 6, namely:—

"Provided that in all suits for money the decree shall bear interest at the rate of 6 *per cent. per annum* until realisation of the decretal amount."

This provision is intended to be put more in the interest of the debtor than in the interest of the creditor. There is a feeling that if there is no such provision in the Act, the debtor cannot get any time from the Court and the creditor might execute the decree immediately the same is passed by the Court. Moreover, in the case of secured loans, the law says up to the date of grace the creditor shall get interest at the contract rate, that is to say, it may be for 3 or 4 months according to the discretion of the Court, whereas in the case of unsecured loans the Court does not practically grant any interest. We are enacting a new law and I think that in the interest of both the creditor and the debtor this provision might be put in.

Maulvi SYED MAJID BAKSH: On a point of order, Sir. You have not called No. 155.

Mr. PRESIDENT: 154 and 155 being identical, only the mover whose name appeared first was called upon to move his motion. Kazi Emdadul Hoque could speak on this motion if he so wished. Besides, it is not my business to call upon anybody to speak, unless he rises and happens to catch my eye.

Khan Bahadur Maulvi AZIZUL HAQUE: I am afraid that this does not cover the sanction which has been received under the Usurious Loans Act, as this amendment seeks to amend a provision of the Civil Procedure Code.

Mr. PRESIDENT: You are mistaken, sanction has already been received.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose it on the ground that it interferes with the discretion now vested in the Court under the Civil Procedure Code.

The motion was then put and lost.

The motion that clause 6 stand part of the Bill was then put and agreed to.

Clause 7.

Babu KHETTER MOHAN RAY: I beg to move that clause 7 be omitted.

Sir, I beg to point out to the Council that this provision will do no good to the debtor. Sir, speaking generally, the creditors and debtors live on friendly terms. They help each other in difficulties. This relation is scarcely disturbed. It is only in some cases in which proceedings are taken in law Courts for recovery of money lent that feeling is strained, but only in rare cases in which the debtor tries to

defeat or delay the claims of creditor by putting false defence in suit and false objection to the execution of proceedings. Whenever the debtor wants to know about the state of his accounts, he is readily shown the account; every time the debtor pays interest, he can learn how his account stands. It is to the interest of the creditor to keep the debtor informed about the state of his account, so that the debtor may realise his position in regard to the loan and try to repay the same. The creditor has no interest to refuse to supply any information regarding the loan to the debtor. Relation becomes straitened as pointed out above when there is litigation. During the course of litigation, the debtor is not in necessity of approaching the creditor for information on details, as everything is set down in detail in the plaint.

Sir, even if this provision is enacted, no honest debtor will avail himself of this provision for fear of incurring displeasure of the creditor with whom the honest debtor will try to be on friendly relations. It may be resorted to by a dishonest debtor who tries to defeat the claims of his creditor. Besides, Sir, it will put unnecessary burden on the creditors. The village money-lenders are uneducated people; many of them are illiterate and ignorant people. The Hon'ble Home Member was heard to say that if the banks at Calcutta and elsewhere could supply copies of accounts to their constituents and clients quarterly, why the village money-lenders would not be able to supply the same to their debtors twice yearly? To this my reply is that the village money-lenders have not got their regular offices and clerks. These money-lenders have generally small capital and cannot afford to keep offices or clerks. Many of them are illiterate people such as widows, females or minors and others whose number is legion. It will be impossible for them to supply information as required by this clause. Sir, this provision will have one effect only, namely, that it will make the rural creditor dearer, which, I hope, the Government and my friend the Khan Bahadur do not want. The village money-lenders with limited capital will not be able to bear the cost of sending information. If you want information, why should you not pay for it. In this respect I cannot but characterise it as unjust and inequitable.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to support this amendment and, in fact, I also tabled a similar amendment. Of all the provisions of this Bill this is the most pernicious clause—if I may say so—which has been inserted, of course unwittingly. Perhaps, the author of the Bill has in his mind the cases of Kabuli money-lenders who, without revealing the accounts, mislead the debtors and lull them to a sense of security and ultimately fall upon them with a large demand. But as the Bill proposes to exclude the city of Calcutta from the operations of this Bill, the Kabuli money-lenders will practically be quite safe because their transactions are mostly in

Calcutta, so the provision of this clause will apply with all its force to the village money-lenders. Now, Sir, the village money-lenders belong to two classes—one class is literate and it consists of big money-lenders who have got accounts and officers and who are in a position to supply information when asked for. I will not plead for these money-lenders. They are bound to supply any information whenever they are called upon to do so. I think it is their moral obligation also to give all the information in their power; but by far the larger number of money-lenders belong practically to an illiterate class and some of them are probably widows, minors, etc. They have got no offices of their own, they have no regular offices and accounts, and if information is asked for from them, it will not be an easy task for them to supply such information; and the implication of this provision is that if they fail to supply information the result will be disastrous, that is the interest will be stopped from the date of refusal. This will operate harshly on this class of money-lenders. This clause is sweeping in its character and makes no distinction between one class of money-lender and another. In legislating we should not try to cause hardship to any class of money-lenders and specially to a particular class which is really the larger of the two classes. Then, again, it will lead to another source of great trouble and expense. It is not provided in the Bill as to how really the information is to be supplied—whether that is to be done orally or in writing or by registered post, etc. We know already that there are many difficulties in proving notices in law Courts and many suits fail because it cannot be proved to the hilt by legal evidence that proper notices were served. Sir, debtors in many cases—I do not say all debtors; there are honest and dishonest debtors as there are honest and dishonest money-lenders—will put forward the excuse that they had called for information and that information was not supplied. Even in cases where information was supplied, such debtors would put up a defence if only to delay payment, and it will not be an easy task for the so-called money-lender to prove to the satisfaction of the Court in all the legal ways and methods that he did supply the information. The result will be a protracted litigation and in the end either party will lose. If the money-lender loses, he will lose heavily as he will lose interest; if the debtor loses, he will go up to the highest Court in the hope that perchance he may win, and if he does win in the end, the gain will not be his but his lawyers'. So by this provision, neither the money-lender nor the debtor has much to gain. On the contrary, the absence of the provision in this clause as to who is to meet the expenses of supplying the information is a point which should be taken into consideration. Of course, there are amendments on this point, but the way in which the clause has been drafted shows that only one side of the question was present in the mind of the author of the Bill and not the other side. I do not think, considering our experience of *mufassal* money-lenders that there has

been much hardship caused on account of the absence of any such provision in the law or owing to the fact that money-lenders have refused to supply information when approached. I take it generally that it is in the interest of the money-lenders to supply information, because if the information is asked for in order to make payment, it is to the interest of the money-lender to supply it forthwith as by so doing he will get payment. I do not think it is in the interest of the money-lender to refuse information, unless of course it is the case of the Kabuli money-lenders who may expect that their compound interest will swell and they will come down on the debtors suddenly one day and have a decree passed by the Calcutta Small Cause Court the execution of which is done through *mufassal* Courts. In view of this, I submit that the main principle of the Bill will not suffer in any way and the main object which the member in charge has in view will not suffer in any way if these two clauses—7 and 8—are omitted from the Bill. On the contrary, I think it will save much cost, trouble, expense and ill-feeling between the parties. I think whatever may be the rate of interest, however stringent may be the provisions regarding the amount to be charged and to be realised, nobody can deny that harmonious relations ought to prevail between money-lenders and debtors because the debtor has often to approach the money-lender as the latter is the one man of whom the borrower is in need. Therefore, there is no need for providing occasion for creating ill-blood between the parties where there is none, and when as a matter of fact nobody stands to gain by the provisions of this clause. So, I support the motion for the omission of the clause.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I can assure my friend that like the great story of Æsop's Fables, two brothers will not quarrel if there is nothing to quarrel about. There is absolutely no cause for ill-feeling if the parties are friendly to each other.

I would now dispose of his second point by saying that out of four thousand persons who have come from Afghanisthan for doing business mainly of a money-lending character, only four hundred reside in Calcutta and the rest carry on their business in the *mufassal*, so my friend's argument is not borne out by statistics. It may be that the number of country money-lenders in his own district is larger than the number of Kabuli money-lenders. After all, what does it aim at? If a debtor by registered post wants to know what his position is—and most of our people we all know have not even elementary education—there is no reason why this information should be denied to him. It is an admitted fact also—and a fact which will be accepted by everybody—that most of the money-lending people are educated and it is quite easy for them at least to keep accounts. If somebody wants by registered post some information, then that information ought to be supplied.

Am I to understand that widows do not keep any account of the loan given by them? I am quite sure that they know their position. For that reason, I think that an amendment of this nature is absolutely beside the point. If the relation between the lender and the borrower is as good as has been said, I think there would not have been any necessity for a Bill of this nature. I, therefore, oppose the amendment and move that the question be now put.

The motion that the question be now put was put and agreed to.

Babu Khetter Mohan Ray's motion was then put and lost.

Rai Sahib SARAT CHANDRA MUKHOPÂDHAYA: Sir, I beg to move that clause 7(*i*) be deleted and in its place the following be substituted:—

"Every money-lender on receipt of a money-order of an amount not less than 8 annas from the debtor demanding in the coupon an account of his debt, shall supply such debtor with such particulars concerning his debt on account of which any sum is due from the debtor."

Sir, this clause, as it is, would entail a heavy burden on creditor Banks and Loan Offices. The cost of sending a registered acknowledgment due post-card would be 4 annas 9 pies and the cost of sending the accounts by registered post with acknowledgment due would be 5 annas 3 pies. I say that in each case the registered posting must be acknowledgment due, as each party shall have to keep evidence of the same for future suits. Therefore, if a Loan Office (as in the case of our Loan Office) has about 2,000 debtors, it may have to spend over Rs. 600 six-monthly for supplying the accounts to the debtors, though it is only for the benefit of the debtors. So I have asked for the proposed amendment, as equitably the debtor for whose benefit this clause is going to be enacted should bear the cost of supplying the accounts also. If the debtor sends 8 annas by money-order, he will have to pay additional 2 annas as money-order commission. The debtor will mention in the coupon his demand for account and keep the receipt as his evidence. Out of the 8 annas the creditor will spend 5 annas 3 pies for supplying the account by post as stated above and the remaining 2 annas 9 pies will be spent for keeping an establishment and for contingency expenses for supplying the accounts.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose it on the ground that this amendment has been so worded that it is absolutely impossible to work it. What particulars the debtors are to be supplied with are not mentioned. On the other hand, we have provided that Government will prescribe certain forms in which the particulars will be supplied. There are of course certain incidental expenses in connection with every business as also with the money-lending business,

and I hope it is not intended that the particulars of these expenses should be supplied along with the account of the debt. I oppose the amendment.

Rai Bahadur KESHAB CHANDRA BANERJI: I think the amendment proposed is very clear. By account the mover means the account of the loan taken by the borrower; it does not mean the account of his household expenses. So it is a very desirable provision. It is not understood why the money-lender should be penalised for supplying the information wanted by the borrower. I support the amendment.

The motion was then put and lost.

Mr. PRESIDENT: I think we could have one discussion on amendments Nos. 164-168 and 170.

Babu SATISH CHANDRA RAY CHOWDHURY: I beg to move that in clause 7 (*1*), in line 2, after the words "registered post," the words "and on receipt of reasonable expenses for the same" shall be inserted.

Sir, I will not take much time of the Council over this amendment. I will only say that it is based on the English Money-lenders Act which also provides for the payment of reasonable expenses by the borrower, and I think it is based on reason and common sense also. I hope here, too, reason and common sense will prevail with the member in charge of the Bill.

Babu KHETTER MOHAN RAY: I beg to move that in clause 7(*1*), in line 2, after the words "registered post," the words "and on payment of prescribed fee" be inserted.

My reasons are clear. In the original Bill there was a provision for payment of a certain fee, probably 8 annas—I do not remember the exact sum—to be paid by the debtor and sent to the creditor so that the required information may be supplied. This has, however, been omitted in the Select Committee. I think there ought to be some provision for the payment of a fee prescribed by Government for the purpose, and there should be some rules in this connection.

Mr. SARAT KUMAR ROY: Sir, I support the motion of Babu Khetter Mohan Ray.

I think that the Legislature ought not to impose any obligation upon a party without providing for him an adequate means for discharging such obligation, and it is the party who is benefited by the discharge of such obligation that should bear the costs.

Sir, the borrower alone is interested in obtaining the information, and hence it is equitable to ask him to bear all costs for obtaining it.

Sir, I understand that provision will be made in the rules to compel the money-lenders to transmit statements of accounts to the borrowers by registered post, which will mean additional expense for the money-lenders.

Sir, in Government offices and Courts, whenever any information is solicited, the party has to bear costs and fees.

The Calcutta Banks also charge their constituents with postage for sending even ordinary letters to them.

I, therefore, propose that the costs of transmitting the information as may be prescribed by the Government should be borne by the borrower and that unless he pays such costs, the creditor ought not to be asked to supply him with the information.

So I do not see any reason why private money-lenders should be made to bear such costs from their own pockets.

With these words, I support the amendment.

Dr. NARESH CHANDRA SEN GUPTA: I only wish to say in answer to these motions that the money-lenders have been rather generously dealt with in the matter of fixing the maximum rate of interest, and considering that, they might possibly bear the little expenses which might be involved in giving the accounts. We have heard a great deal about the accounts, but what will be the total cost of supplying them? Five annas, 8 annas and similar other figures have been given. In a big business accounts are regularly kept and a clerk will simply copy them in ten minutes or so, and in the case of a small business in the *mufassal* the village scribe can copy it in two minutes for an anna or a half.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose both the amendments on the ground that I consider them to be absolutely unnecessary. I do not think my friends feel that there will be any number of demands by the debtors for the supply of accounts. All the arguments that we have heard hitherto make one believe that there is a good relationship between the lender and the borrower in the country. If that is so, it will not be operative. It will only operate where good relationship does not exist. In that view, the amendments are not necessary. I, therefore, oppose them.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I rise to support the motion moved by Babu Khetter Mohan Ray, because I think it is desirable that the money-lender should receive some fee for supplying the information. It is not merely a question of supplying the information by a clerk as has been suggested by Dr. Sen Gupta, but when a

suit is brought, he has to prove that he supplied the information. That requires a certain amount of organisation. He has also to supply the information in a registered cover, otherwise its receipt may be disputed. This section in actual working will give rise to many complications. In every suit the debtor will take the plea that he was not supplied with the information and the creditor will have to prove that he did supply the information. We have to provide against all these future troubles, and so I think that the fee ought not to be very high, but at least there should be some fee to avoid the tendency on the part of a bad debtor to harass the creditor.

Babu Satish Chandra Ray Chowdhury's motion was then put and lost.

Babu Khetter Mohan Ray's motion being put a division was taken with the following result:—

AYES.

Banerji, Rai Bahadur Khetah Chandra.
Banerji, Mr. P.
Barma, Rai Sahib Panchanan.
Basu, Mr. Narendra Kumar.
Das, Rai Bahadur Satyendra Kumar.
Maiti, Mr. R.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hanuman Prasad.
Rai Mahasai, Manindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Roy, Mr. Sarat Kumar.
Roy Chowdhuri, Babu Hem Chandra.
Samad, Maulvi Abdus.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerjee, Babu Jitendralal.
Bazir Uddin, Khan Sahib Maulvi Muhammad.
Bellamy, Mr. J. M.
Bose, Mr. S. M.
Chaudhuri, Khan Bahadur Maulvi Ahmadzzaman.
Chaudhuri Khan Bahadur Maulvi Nafizur Rahman.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Haji Badi Ahmed.
Chowdhury, Maulvi Nural Absar.
Dain, Mr. G. R.
Edgley, Mr. R. G. A.
Ezeefji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghuznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dildar.
Gilchrist, Mr. R. N.
Gladding, Mr. B.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hoque, Kazi Emdadul.
Hossain, Nawab Musharraf, Khan Bahadur.
Hossain, Maulvi Muhammad.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Ramay Rahman.
Khan, Maulvi Tamizuddin.
Milne, Mr. G. R.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mullick, Mr. Mukunda Behary.
Nag, Rowsand R. A.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Nicholl, Mr. G. K.
Philpot, Mr. H. G. V.
Prentice, the Hon'ble Sir William.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Rout, Babu Nagendra.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. S. N.
Sarkar, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Townend, Mr. H. P. V.
Williamson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 16 and the Noes 57, the motion was lost.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I beg to move that after sub-clause (*1*) of clause 7, the following sub-clause be inserted, namely:—

"(*1a*) A money-lender who sends by registered post to the debtor at the address mentioned in the form of demand the particulars referred to in sub-section (*1*) shall be presumed to have complied with the demand made under that sub-section."

While moving this amendment, Sir, I would submit that so far the interests of debtors only have been furthered and maintained, and there has been no safeguard in this Bill from the creditors' viewpoints. With this object in view, I am moving for insertion of this sub-clause (*1a*) to put a stop to false defences on the part of dishonest debtors, on the ground of non-compliance of particulars of their loan by the creditors as per sub-clause (*1*). Sir, this my demand is a very modest and reasonable one from the money-lenders' viewpoint; hence, I would appeal both to the mover and the Government to accept my amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am prepared to accept it.

The motion was then put and agreed to.

Rai Bahadur SATISH CHANDRA MUKHERJI: Sir, I beg to move that clause 7(*2*) be omitted.

Sub-clause (*2*), which I want to delete, says that when a money-lender has complied with the demand made by a debtor under sub-clause (*1*), the debtor shall not be entitled to make a further demand for particulars within a period of six months. What I beg to point out to this House is that at least the debtor is expected to keep himself some particulars regarding the time, the amount of the debt, and the rate of interest of his debt. But the necessity for demanding these particulars periodically from the money-lender is simply harassing. Clause (*2*) says that once these particulars are supplied, the debtor cannot demand them within six months. I think one demand is sufficient in interest of all if it be complied with. With these words I commend the motion to the acceptance of the House.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, with due deference to my friend the Rai Bahadur I must say that the argument which he has put forward is defeated by his own argument, because, unless clause 7(*2*) is retained, it will be open to the debtor to demand these particulars at any time and the money-lender will have to supply them. I am afraid that my friend, the mover, has altogether misread the section, and I, therefore, oppose it.

The motion was then put and lost.

Babu KHETTER MOHAN RAY: Sir, I beg to move that in clause 7(2), in line 4, for the words "six months" the words "one year" shall be substituted.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I beg to oppose it.

The motion was then put and lost.

Khan Bahadur Maulvi AZIZUL HAQUE: May I suggest, Sir, that motions Nos. 179 and 180, standing in the names of Munindra Deb Rai Mahasai and Mr. Satya Kinkar Sahana, are absolutely unnecessary, because if Government prescribe a form they will certainly provide a column for the address.

The Hon'ble Sir WILLIAM PRENTICE: I guarantee that in the form to be prescribed there will be a column for address.

The motions mentioned were not moved.

The motion that clause 7, as amended, stand part of the Bill was then put and agreed to.

Clause 8.

Rai Sahib SARAT CHANDRA MUKHOPADHAYA: Sir, I beg to move that in the first line of clause 8, after the word "money-lender," the words "except illiterate and legally incapable money-lenders and females and widows" be inserted.

The object of this amendment is too clear to be dilated upon. In our country there are many creditors who are illiterate, helpless and wanting in understanding and intelligence, and in fact who are apt to be more easily deceived by the debtors than the debtors would be by them. As such creditors certainly need more protection than the debtors, they ought to be exempted from the provision of this clause. This argument would apply with stronger reasons to the case where the creditor is a minor and legally incapable representative of a deceased creditor.

Khan Bahadur Maulvi AZIZUL HAQUE: I have not yet heard anywhere that a man suffering from a legal disability ought to be given certain advantage of exemption from supplying the information. As regards the female, I will only oppose it by stating my personal experience. Once upon a time, I took a loan of money from a lawyer friend of mine (it was during the earlier years of my practice). I was surprised when I first came to know that I had to execute the bond in the name of his wife, because a lawyer is not entitled to do any other business except the business of law. So, is it to be suggested

that simply because a man is carrying on the money-lending business in the name of his wife, she should be exempted from the operations of this Act? I oppose the amendment.

The motion was then put and lost.

Babu HEM CHANDRA ROY CHOUDHURI: I beg to move that in clause 8, in line 4, for the words "a month," the words "two months" be substituted.

The effect of this amendment if accepted will be that the time for supplying this information will be extended from one month to two months. When this Bill comes into force, it will cover not only the big money-lenders and Banks and Co-operative Societies, but it will also include the females, minors and illiterate persons. Sir, in a country where 93 *per cent.* of the people are illiterate, illiteracy cannot be confined to the debtors only; some of the creditors may also be illiterate, and all the ladies cannot be wives of pleaders. There may be lady creditors who are illiterate and who are not wives of learned men as my friend has suggested. It may also happen that a creditor who has received such notice may be absent from his place of occupation to a distant place for some time. Hence, one month's time is not sufficient for him to supply this information. I am supported by eminent officers such as the District Judges of Jessore and Murshidabad. The District Judge of Jessore says: "The one month's time under certain circumstances may be too short. The time should be made 'reasonable time'—not less than two months from the date of the receipt of the requisition." The District Judge of Murshidabad says with regard to former clause 18B: "The money-lender should be allowed three months' time instead of one month to comply with the debtor's demand, as the money-lender may not be able to reply, owing to his being away on business in another part of India." With these words, I commend my motion to the acceptance of the House.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose this on the ground that two months will certainly not help an illiterate creditor in the manner my friend wishes it to be. I could understand it if in course of a month the creditor could learn A, B, and C or ক, খ, গ, but he will take years to do so. The law always demands that there should be diligence on the part of everybody.

As regards the question of absence, say, for attending the Session of the Legislative Council, that is a reasonable excuse, and if it happens in the case of a money-lender, he will certainly not be penalised if he can show that he was absent from the station on reasonable grounds.

Dr. NARESH CHANDRA SEN GUPTA: I want only to add one word in answer to what has been said on the subject of minors, women and all those persons. I think that this Bill would do a really good service to the country if any and every person who has a spare rupee in his hand is not permitted to become a money-lender. It would be much better if they put their money into a Co-operative Society or Bank or such other institutions which carry on money-lending on a systematic basis.

Babu Hem Chandra Roy Choudhuri's motion was then put and lost.

Babu HEM CHANDRA ROY CHOUDHURI: I beg to move that in clause 8, in line 5, before the word "interest," the words "half of the" be inserted.

Under the clause as it stands, if a creditor or money-lender fails to supply certain particulars under section 7, he would have to forego the interest for the period of his non-compliance with the demand. I think that the penalty involved is very great and that the incentive for supplying the information in time would not be lost if half of the interest only were to be foregone by him. I am of opinion that if he were to forego the full amount of the interest it would be too much for him.

It may also happen that one may by mistake fail to supply the information in time and that it may also happen that some of the illiterate money-lenders may not even know the law. Taking these unintentional failures into consideration, I am of opinion that the purpose of the clause will be served if the negligent creditor has to lose half the interest for the period.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose it on the ground that a full loaf is always better than half a loaf. I feel that there is no justification for a clause of this nature. After all, we want some sanction in law by which the money-lender can be compelled to comply with the provisions of the section. Of course, we should not make it unnecessarily rigorous, but if it is to be effective, the only way to make it so is to disallow interest for the period the money-lender did not comply with this provision, but the moment he complies with it he gets the interest. I do not see any reason why we should accept this amendment.

The motion was then put and lost.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 8, in lines 5 to 7, for the words "interest shall not be chargeable in

respect of the loan concerning which the demand was made for as long as the demand continues" the following be substituted, namely:—

"no costs shall be allowed to the lender in the event of a law suit for recovery of the money so lent."

The penalty for stopping interest for non-compliance with the demand for statement would be too hard for the money-lenders, and it would complicate matters and create anomalies. Of course, some penalty should be provided for, and I think it would meet the ends of justice if no costs are allowed to the lender in the event of a law suit for the recovery of the money so lent. This would have a deterrent effect on the lender.

Khan Bahadur Maulvi AZIZUL HAQUE: I consider that it will have no deterrent effect, and so I oppose the amendment.

The motion was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 8, in lines 5 to 7, for the words beginning with "interest shall not" and ending with "default continues," the following be substituted, namely:—

"he may in a suit for recovery of the loan concerning which the demand was made be deprived of all or any portion of the costs of such suit."

I think that after what the member in charge of the Bill said a few seconds back that he did not want to make the Bill unnecessarily rigorous, this amendment which wants to give the Court power to deal with a money-lender who fails to supply the information required by mulcting him in a proportion of the costs is the only proper and legal remedy. But as the Bill has progressed, and as now it stands, I know that it would be rather difficult unless there is sympathy with it from quarters opposite, to have it got through, but I will ask the members of the House to remember what I said in my Minute of Dissent on this clause. As it may not have been read by many members, with your leave, Sir, I would like to read it out: "The penalty for a default in complying with a demand for information is much too drastic. The Committee has chosen to forget that the money-lender may not in all cases be a shrewd and hard business man, but may be a *purdanashin* and illiterate woman, a person whose sole means of subsistence is the interest brought in by a very small capital. The loss of such interest on what may be a purely unwitting default does not seem to me to be called for in every case without exception. One must not forget that amongst debtors there may well be many wily and hard-swearing persons willing to take advantage of the money-lender who has

helped him in time of difficulty. The sympathy of the legislator need not be exhausted upon the borrowers of money who after all cannot be supposed to do a public service by taking loans."

Sir, Dr. Sen Gupta has said that he would welcome the day when the minors, women and illiterate persons were removed from the class of money-lenders. I am not sure that this is an ideal to be looked for, but even if it were, we have got to face facts as they are at present, and so long as there are ignorant and illiterate women and minors in the class of money-lenders and so long as debtors are not as honest as my friend, the member in charge of the Bill, it may happen that debtors may try by hard-swearing to see that the poor money-lenders, who need not necessarily be all dishonest but some of whom may certainly be dishonest, try to see that they may be deprived of their interest. I do not mean to say that the Court will not have any jurisdiction or discretion in these matters. As my friend the Khan Bahadur knows very well, a well-known remedy in the law Courts for any laches on the part of the parties is to mulct him in costs. I want him to have the same principle applied in the case of a money-lender who has not been recusant, but neglectful or who has unwittingly, as I said in my Note, forgotten to supply the information. Why should you make it compulsory for the Court and say it must in all cases deprive the person of all his interest, but why not make it a matter of costs only? It may be said that the Bill has now almost reached its penultimate stage, and it may be also said that it will do good to the country as my friend supposes it will. I will not deny that this Bill as it has emerged up to now is something like the curate's egg—good in parts—but I will ask him to remember that he ought to think of an honest money-lender at the same time that he is thinking of the dishonest and usurious one. So far as this provision is concerned, it has got nothing to do with usury. This applies to all money-lenders alike, usurious or not, and it goes on to say that unless the information wanted is given, all interest shall cease. I would ask the hon'ble member to consider whether it would not be proper and more legitimate to legislate in the way I have suggested, namely, to make it a matter of costs and leave it to the discretion of the Court.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, I am sorry that, while appreciating the motive of the mover, I cannot agree with him in the proposal that he has made for the reason that we do not know that it will benefit the creditor. It may be that in some cases the costs will outweigh very much the interest. The refusal of all costs may operate more harshly than the refusal of interest which will remain suspended during the intervening period only and may not amount to very much, while the full costs may come to a very large amount, and if the whole cost be disallowed, it would be a great loss

to the creditor and not be to his gain as the mover seems to think. So I am sorry that we have to differ from him.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I oppose the amendment. I must say that this penal provision is exactly on the same line as is contained in the English Money-lenders Act, and my friend has not indicated any procedure by which the matter can be decided in the way he wants. He would depend not on the exigencies of the situation, but on the discretion of the Court, and on this ground I oppose the amendment.

Mr. Narendra Kumar Basu's motion was then put and lost.

The motion that clause 8 stand part of the Bill was then put and agreed to.

Proposed clause 8A.

Maulvi Abdul Hamid Shah moved the following amendment and delivered a speech in Bengali in support thereof:—

That after clause 8, the following new clause be inserted, namely:—

"8A. If a money-lender to whom a demand has been made in accordance with the provisions of sub-section (*1*) of section 7, supplies false or incorrect particulars, his entire claim shall be disallowed in respect of the loan concerning which the demand was made."

Mr. NARENDRA KUMAR BASU: I think the House will be well advised to accept the amendment moved by Maulvi Abdul Hamid Shah. As he has pointed out, it does supply a lacuna in the Bill, and I think that together with this clause there ought to be a further clause inserted that the money-lender when he fails to supply information on demand, or supplies incorrect particulars, will be also liable to be sent to imprisonment. (Laughter.)

Khan Bahadur Maulvi AZIZUL HAQUE: I was only expecting that my friend would suggest capital punishment and I am indeed surprised at his moderation. Well, Sir, I have every sympathy with the motion, but the drafting does not seem to be quite right. For instance, it says that if false or incorrect particulars are supplied, there shall be a penalty, but the question is whether those particulars were supplied knowingly or otherwise. In this view of the matter, I would oppose the motion.

Maulvi Abdul Hamid Shah's motion was then put and lost.

Clause 9.

The motion that clause 9 stand part of the Bill was put and agreed to.

Clause 10.

The motion that clause 10 stand part of the Bill was put and agreed to.

The Preamble.

The motion that the Preamble stand part of the Bill was put and agreed to.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I move that the Bill, as settled in Council, be passed.

I must thank the House and particularly the Hon'ble Sir William Prentice and the Government for giving me facilities in getting this Bill through the Council. I said long before that it was impossible to carry a Bill of this nature through, when it is a private member's Bill, unless it had the support of Government, and I must thank Government for the support they have given. I must at the same time thank not only those friends of the Council who have supported but also those who have opposed the Bill, and I thank the latter particularly for the reason that they have put forward all necessary points of view before the House. As a result of the considered opinions of all, the Bill has emerged in the manner that it has, and I think everyone will be satisfied that every attempt has been made to do justice to all. I do not claim perfection for my Bill, as after all you cannot expect to have perfection in anything, and if any defects come to light subsequently in the operation of this law, those defects can be remedied by an amending Bill. I think this House has to its credit the passing of many useful Acts, but I submit that it has now provided the State with an economic measure of far-reaching importance. I again thank the House for passing this measure.

Lastly, Sir, I thank you particularly for the patience with which you piloted the debate and the manner in which you not only carried on the debate but also upheld the dignity of the House, and I am really sorry if in the exuberance of my feeling I have in any of my speeches given you any reasonable cause for annoyance.

The motion was then put and agreed to.

The Bengal Tenants' Protection from Usury Bill, 1933.

Maulvi SYED MAJID BAKSH: I beg to move that the Bengal Tenants' Protection from Usury Bill, 1933, be referred to a Select Committee consisting of—

(*1*) The Hon'ble Member in charge of the Judicial Department,
(*2*) Mr. W. H. Thompson,
(*3*) Mr. W. L. Armstrong,
(*4*) Khan Bahadur Maulvi Alimuzzaman Chaudhuri,
(*5*) Maulvi Abdul Hamid Shah,
(*6*) Maulvi Nural Absar Choudhury,
(*7*) Babu Jitendralal Bannerjee,
(*8*) Dr. Naresh Chandra Sen Gupta,
(*9*) Maulvi Azizur Rahman,
(*10*) Babu Amulyadhan Ray, and
(*11*) the mover,

with instruction to submit their report within a week from the date on which this motion is carried in Council and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, it will be seen that I have made one or two alterations in the names of the members of the Select Committee with your permission.

I may tell the House at the outset that as this Bill covers the same principles embodied in the Bill which has just been passed by this House, I think the House may not be in a mood to consider this Bill. Perhaps they will think that one Bill overlaps the other, and so this Bill should not be taken into consideration. If the motion for circulation of this Bill be passed, I will be glad to accept it, leaving it for cooler brains in the cold season to consider it.

Mr. SARAT KUMAR ROY: I beg to move, by way of amendment, that the Bill be recirculated for the purpose of eliciting further opinion thereon by the 30th November, 1933.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, may I suggest for your consideration that it may, perhaps, save the time of the Council if you take up the two things separately—one, the circulation of the Bill, and the other, the merits of the motion, that is the question for reference to the Select Committee.

Mr. PRESIDENT: What difference will it make?

The Hon'ble Sir PROVASH CHUNDER MITTER: I should have thought that in that case we might be able to finish it more quickly.

Mr. PRESIDENT: On the other hand, I think we shall save time if I decide, as I have always done, to have one discussion on motions for reference to Select Committee and circulation. Besides, I should give the circulation motion a fair chance.

Mr. SARAT KUMAR ROY: Sir, the object of the Bengal Tenants' Protection from Usury Bill, 1933, is almost identical with that of the Bengal Money-lenders Bill, 1933, which has just been passed by this House, and the main provisions of the two Bills are not very wide apart. I do not find why the same thing should be repeated over again. It can serve no useful purpose. As the object for which this Bill has been introduced will be adequately served by the Bengal Money-lenders Bill, which has just been passed by this House, I think this Bill is redundant.

I, therefore, request the mover of the Bill to withdraw it.

Sir, with these words, I oppose the consideration of the Bill, but if that is not accepted by this House, I submit that it is highly desirable to circulate this Bill for eliciting public opinion.

The Hon'ble Sir WILLIAM PRENTICE: Perhaps, it may save the time of the Council if at this stage I explain the attitude of Government with regard to this Bill. We are opposed to the Bill. For having consulted various officers we find that practically no one is in favour of any clause in this Bill. As regards reference to a Select Committee, we are also opposed to it. A large part of the Bill is covered by the provisions of the Act that we have just passed, another part proposes to interfere with decrees of the Civil Courts, a policy to which we are opposed, and the remainder deals rather indefinitely with other matters which we think had better be left alone at present, until it is seen what are the practical results of the experimental legislation which we have just passed.

Maulvi SYED MAJID BAKSH: Sir, I beg leave to withdraw the motion.

The Hon'ble Sir WILLIAM PRENTICE: I object to it.

The motion of Mr. Sarat Kumar Roy was then put and lost.

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. If a member begs leave of the House to withdraw a motion, is he not entitled to call for a division on that point?

Mr. PRESIDENT: Why not?

Maulvi SYED MAJID BAKSH: I wish to know if at this stage when the circulation motion has been defeated, I may be permitted to withdraw my motion.

Mr. PRESIDENT: You wanted to withdraw it, but Sir William Prentice objected to it.

Maulvi SYED MAJID BAKSH: May I request you to put the motion before the House?

The Hon'ble Sir WILLIAM PRENTICE: I oppose the motion for withdrawal.

Mr. PRESIDENT: The rules lay down that the motion should be put before the House.

On the motion being put, a division was claimed.

On the Council assembling for the division——

Mr. PRESIDENT: Before I put the question again, I think it is clearly my duty to remove a misunderstanding. Let me first of all draw the attention of the mover to section 67, page 298 of the Bengal Legislative Council Manual. I may read it out for his benefit. It runs as follows:—

"The member in charge of a Bill may at any stage of the Bill move that the Bill be withdrawn, and, if such motion be carried, the Bill shall be withdrawn accordingly."

Now the point is whether it was in the member's mind that by withdrawing the motion before the House he wanted to withdraw the Bill or simply the motion before the House. If he simply wanted to withdraw the motion before the House, then the Bill will stand as introduced. On the other hand, if he withdraws the Bill, it is taken off the order paper of Bills. What is his intention?

Maulvi SYED MAJID BAKSH: Sir, I beg to withdraw the motion before the House.

Mr. PRESIDENT: Then you are not withdrawing the Bill?

Maulvi SYED MAJID BAKSH: No, Sir.

On the motion that leave be given to Maulvi Syed Majid Baksh to withdraw his motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Nasim.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Bannerjee, Babu Jitendralal.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Maulvi Nural Absar.
Emerji, Maulvi Nur Rahman Khan.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Nagendra.
Samad, Maulvi Abdus.

NOES.

Armstrong, Mr. W. L.
Ashworth, Mr. G. G.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Muhammad.
Basu, Mr. Jitendra Kumar.
Bottomley, Mr. J. H.
Bose, Mr. M. N.
Chowdhuri, Babu Kishori Mohan.
Dain, Mr. G. R.
Das, Rai Bahadur Satyendra Kumar.
Eggley, Mr. H. B. A.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Ghaznavi, the Hon'ble Alhadj Nawab Bahadur Sir Abdelkerim, of Dilduar.
Gilchrist, Mr. R. N.
Gladding, Mr. G.
Hogg, Mr. G. P.
Hooper, Mr. G. C.
Hosain, Nawab Musharrut, Khan Bahadur.
Khan, Mr. Razaur Rahman.
Mitter, the Hon'ble Sir Provash Chunder.
Mitter, Mr. S. C.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Saral Chandra.
Mullick, Mr. Mukunda Behary.
Nazimuddin, the Hon'ble Mr. Khwaja.
Nelson, Mr. W. H.
Nicholl, Mr. G. K.
Philpot, Mr. H. G. V.
Prentice, the Hon'ble Sir William.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray Chowdhary, Mr. K. G.
Ray, the Hon'ble Sir Bijoy Prasad Singh.
Ray, Mr. Baikuntheswar Singh.
Ray, Mr. Sarat Kumar.
Ray, Mr. S. N.
Ray Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Rai Bahadur Jogesh Chandra.
Sen Gupta, Dr. Naresh Chandra.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J.

The Ayes being 18 and the Noes 50, the motion was lost.

The motion that the Bill be referred to a Select Committee was then put and lost.

Adjournment.

The Council was then adjourned till 3 p.m. on Tuesday, the 29th August, 1933, at the Council House, Calcutta.

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